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The Solicitors' Journal

VOL. LXXX. **Saturday, July 4, 1936.** No. 27

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Current Topics.

The City Shrievalty.

PERIODICALLY we are reminded of the unique place which the City of London holds in the matter of local administration. One of these comes out once again as we are reminded by the proceedings last week in the election of sheriffs for the current year. The history of the City sheriffs shows considerable variation from time to time in the matter of their appointment. In 1347 we read that a new method of procedure was adopted, one of the sheriffs being elected by the Mayor, and the other by the Commonalty. In the seventeenth century the right of the Mayor began to be contested; he might, indeed, nominate but not elect, although, as a rule, the citizens paid him the compliment of electing his nominee to serve in conjunction with the sheriff of their own choice. At a later period the Mayor's prerogative of electing one of the sheriffs was exercised without opposition, but by an Act of Common Council of 1878 it was declared "that the right of election to the office of sheriff should vest in the liverymen of the several companies of the City, in Common Hall assembled, the 24th of June in each year being fixed as the election day, and casual vacancies being filled up by elections on days to be fixed by the Court of Aldermen." Besides the ceremonial functions, of which there are many, which they have to discharge, the sheriffs are required to attend the sessions of the Central Criminal Court, and, of course, have to discharge the duties which ordinarily attach to their office, e.g., the service of writs, etc., which are performed by deputy with, however, responsibility continuing in themselves. In an elaborate report prepared in 1893 it was stated that the average cost to each gentleman serving the office might be put at from £3,000 to £4,000, from which it will be seen that the office has its burdens as well as its honours.

Housing Act Town Planning Administration.

SHORT reference may be made to a number of interesting points in connection with the subject of planning and the Housing Act, 1935, mentioned at a recent conference of representatives of local authorities in London and the Home Counties to consider housing and town planning problems held at County Hall, Westminster. Opening the conference, Mr. LEWIS SILKIN, M.P., Chairman of the Housing and Public Health Committee of the London County Council, said that most local authorities had now completed their survey of overcrowding existing in their areas, which would show that there was still a large amount of housing to be undertaken throughout the country. As a result of the survey in London it was estimated that a further 23,000 new dwellings—the figure does not take into account the question of the clearance of slum areas—would be required to comply with the standard prescribed by the Housing Act, 1935, and it was intimated that this number would be doubled if the standard of that Act were only slightly raised. The speaker also alluded to the problem associated with the existence of underground dwellings, which, although not slums, were described as certainly unhealthy. Opportunity must, he urged, be taken by local authorities to replan their areas in connection with any slum-clearance schemes they might be undertaking. Housing committees would have to co-operate with planning, education and other committees so that they might incorporate social and other amenities in their re-development. Mr. W. H. GAUNT, Hertfordshire County Council, who presided, expressed the opinion that in the matter of planning and housing no more legislation was necessary at present. What was necessary was more tightening up and vigorous administration. He thought that there were too many instances of "may" instead of "shall" in the Act of 1935, so that dilatory authorities were able to refrain from doing more than they were compelled to do. In the case of bedroom accommodation under the Act, the regulations were, in his view, too flexible, and lax administration would result in the standard proving far too low.

The Advantages of Haste.

MR. JOHN MARTIN, secretary of the National Housing and Town Planning Council, urged all local authorities to get on with their schemes as rapidly as possible. When the existing grants and subsidies were fixed in 1930, building costs were, he explained, considerably higher and loan money substantially dearer than to-day, so that those grants seemed very generous now. They would come up for review next year, when the Treasury might be expected to insist on a reduction. A difficulty arising from changes over a course of years in administrative policy was alluded to by a delegate from Bournemouth, who referred to the fact that some years ago they proposed to build in that locality a number of council houses, the plans for which would have conformed to suggestions made in a recent Ministry of Health circular with regard to the accommodation to be arrived at for families of various sizes. The Minister of that time thought the plans were on an extravagant scale, and they had to be recast. When

they were accepted, two separate schemes were approved by the Ministry, and the houses were built. Now it was found that they did not conform with the present ideas of the Ministry as outlined in the circular just referred to. If the suggestions therein contained were enforced, the speaker opined that it would mean that 50 per cent. of council houses throughout the country would have to be classed as overcrowded. Professor ABERCROMBIE, London University, advocated more effective co-ordination in the planning of London. In spite of all attempts at co-ordination, planning in Greater London had been proceeding in compartments. Bodies such as the City Council, the Metropolitan Water Board, the London and Home Counties Electricity Authority, the London Passenger Transport Board and the Metropolitan Police all had different administrative areas and operated separately. The only satisfactory way of dealing with the planning of London would, he considered, be the setting up of a commission to deal with it, to take away from the 300 odd local authorities the major problem of planning, but leaving them with their existing powers of carrying out details after major decisions had been reached.

The Sale of Coal.

MOVING, some ten days ago, in the House of Commons, that the Central (Coal Mines) Scheme (Amendment) Order, 1936—a draft of which, as stated in these columns in our issue of 20th June, was presented to the House on 10th June—be made, Captain CROOKSHANK, Secretary to the Mines Department, laid emphasis on the new powers of initiative conferred on the Central Council. The difference between the draft Order and the previous ones was, he said, really to be found in the fact that it was made clear that on its own initiative the Central Council was now to be required to issue directions with regard to the terms of conditions of sale and so on in the districts. This included the question of prices. The Central Council, he went on, were given powers to inquire into any complaint made by one executive board against another, whether it was an act or omission. Another paragraph of the Order empowered the council, or any other persons in accordance with the scheme, to delegate their powers to committees, the phrase " any other persons " being put in to enable the council to get impartial persons to act for them. The council were also enabled to enter into contracts with any person for the purpose of facilitating the schemes. The motion was agreed to.

Investigation Committees: Legal Chairmen.

A FEW days earlier, the Secretary of Mines was asked if he was aware that the major consuming interests objected to the personnel of the committees of investigation set up under the Coal Mines Act, 1930, on the grounds that they were not independent, that their powers were inadequate and their procedure cumbersome; and whether he would strengthen the personnel of these committees and also provide them with additional powers and more effective procedure to provide a remedy for the dissatisfaction which had arisen in connection with the District Coal Orders before Parliament. He intimated in answer that while fully appreciative of the excellent work which these committees and their chairmen had done in the past—his appreciation was reiterated a few days later when speaking on the motion already alluded to—he had come to the conclusion some time previously that, in view of the different type of work likely to fall on the committees after 1st August, it was necessary to give them a more judicial character, and the chairman of each committee would in future be a member of the legal profession. Reference was made in connection with the extension of the life of Part I of the Coal Mines Act, 1930, to proposed alterations in the functions of these committees with a view to securing more prompt and effective decisions in the event of complaints being made that the schemes were being unfairly used. A few days later in the speech above mentioned Captain CROOKSHANK intimated in further reference to the same subject that the Government would have to extend the life of Part I of the Act of 1930, and when that was done he would take the opportunity of suggesting that they should get a little away from the pure investigation which the committee was then entitled to undertake, and make it something of a more hybrid arrangement. With a legal chairman, if the committee were not unanimous about a plan, it should be left to the chairman to take a decision on behalf of the committee, and that decision should be final. By that means, he said, they would get a speedy decision, with certainty and finality.

Road Safety and Street Lighting.

THE question of street lighting in relation to road accidents at night was recently discussed by Mr. P. J. ROBINSON, City Electrical and City Lighting Engineer, Liverpool, and Mr. J. N. WAITE, City Electrical Engineer, Kingston-upon-Hull, in a paper on electrical street lighting read before the Incorporated Municipal Electrical Association at Edinburgh. The opinion was expressed that if first-class visibility under artificial lighting conditions were provided the fatal accident rate would decrease to day-time rate. Lighting of the standard advocated could be provided at a relatively small increase of present-day lighting costs, and, it was urged, the community, as a whole, paid far more for poor lighting than for good lighting when the cost of accidents figured in the balance sheet. It was stated that local authorities in England and Wales, with the exception of those coming under the Metropolis Management Act, 1935, were under no obligation to light the roads under their control, and in all cases the kind and standard of lighting was entirely at the discretion of the particular authority. An interesting recommendation was made to the effect that the lighting on entrance to secondary and tertiary roads from primary roads should be graded gradually from the standard at the latter over a sufficient distance to enable the normal vision of a motor-driver to accustom itself to the change. If this were not done these entrances would constitute " blind spots " and would be a cause of unnecessary accidents due to the sudden lowering of visibility. It occurs to us that the employment of such a system would also constitute a useful progressive warning to drivers on minor roads of the proximity of a more important thoroughfare. A further suggestion made by the writers of the paper was that roads should be classified for lighting purposes according to their traffic and that a minimum standard of lighting should be prescribed for and provided along each class of road.

"Law" and "Justice."

BRIEF mention may perhaps be made of a recent case when a motorist, who was charged at the North London Police Court of driving a motor car while under the influence of drink, stated that he did not drive the car until a policeman told him to do so. A friend left him in the car a few yards from a corner, and he was told to drive it round the corner because it was holding up the traffic. Evidence for the police supported this statement with the addition that at the time the officer had no idea of the man's condition. The magistrate, Mr. BASIL WATSON, K.C., described the case as a most extremely difficult one. " I admit," he said, " you are really guilty; but in justice, I have great difficulty in finding you guilty of anything. You spoke absolutely truthfully, and the officer has been as fair as he possibly could be. It is a fact that you drove the car quite carefully when drunk, but you did that under the orders of a police officer who was entitled to give you the orders." " This," the learned magistrate continued, " is where law and justice clash, and I think I must give my decision on justice." The defendant was thereupon discharged under the Probation of Offenders Act. For the foregoing information we are indebted to the report of the matter in *The Times*.

Record Housing Progress.

THE figures which have recently been published by the Ministry of Health show that during the half-year ended 31st March, 1936, a record was achieved in the number of houses completed. This was 174,009, which exceeds by a good margin the previous record of 168,727, the figure for the corresponding period a year earlier. Moreover, the proportion of small houses continues to increase. In 1926 just under 70 per cent. of all the houses erected by private enterprise were houses of a rateable value not exceeding £26. Four years later the proportion had risen to about 74½ per cent.; for last year it was approximately 90 per cent. During the past half-year 27,198 houses were completed by local authorities, practically the whole of them being provided as part of slum clearance operations. Declarations covering 26,261 houses were submitted by local authorities during the period in question, while orders submitted to the Minister and orders confirmed by the Minister covered 24,302 and 18,448 houses respectively. Houses demolished numbered 21,125. During the months of April and May a further 8,865 houses were included in declarations submitted and 5,909 and 8,183 respectively in orders submitted and confirmed. With regard to re-housing 27,455 were included in proposals approved during the half-year, a further 8,419 being approved in April and May. Houses under construction at the end of March by local authorities numbered 53,929, of which 41,598 were allocated to the Housing Act, 1930. Reports by local authorities indicative of the result of their inspection of working-class houses as prescribed by the Housing Act, 1935, had by 13th June been received from 1,319 authorities out of a total of 1,536. The total number of houses surveyed was 8,269,130. Of these 316,455, or 3·8 per cent., have been found to be overcrowded. The reports received embrace most of the large centres of population, and it is not thought that the outstanding reports, which local authorities are being urged to send immediately, will substantially affect the foregoing results. It is announced that the Minister of Health proposes to issue at the end of the present month an order specifying those districts in which overcrowding will become an offence on 1st January, 1937.

Housing Act, 1935: Appointed Day.

ON Tuesday, the Minister of Health, who was inspecting various housing operations of the Wandsworth Borough Council, referred to the fact that he had on the same day issued an order under the Housing Act, 1935, fixing 1st January, 1937, as the effective appointed day for the operation of the overcrowding provisions of that Act in areas covering some 83 per cent. of the local authorities in England and Wales. These areas, he said, represented districts where overcrowding had been shown, as a result of the recent survey, not to exceed 2 per cent. or to involve more than 100 houses. The order also included a number of districts outside these limits where the local authorities had expressed a desire for this date to be adopted. Most of the Midlands and practically the whole of the South would, he said, be included. At the same time Sir KINGSLEY WOOD quoted certain of the latest survey figures which showed that, out of some 8,500,000 houses inspected, some 324,000 (or less than 4 per cent.) were overcrowded according to the standard laid down in the Act. He expressed the opinion that the present problem was well within the capacity of the authorities, and said that the elimination of overcrowding could not only be secured within a reasonable period but would be a considerable contribution to the better housing of the people.

The Tithe Bill.

THE Tithe Bill was read the third time in the House of Commons on Monday, the motion for rejection being defeated by 251 votes to 128. The Minister of Agriculture and Fisheries expressed the opinion that if the Bill were shipwrecked it would not be possible for a better Bill to be put forward for years to come. A number of amendments incorporated in the Bill during the Report stage may be shortly noted. A new clause was accepted dealing with the liability to repair chancels arising from the ownership of tithe rent-charge extinguished by the Bill. This clause provides for the handing over of stock to the authorities concerned—the diocesan authority or the representative body—instead of the creation of a charge, as originally provided by cl. 31, on stock issued to owners of lay tithe rent-charge issued in respect of the amount necessary to answer the obligation. Provision is also made for apportionment of the liability to repair chancels where tithe rent-charges in the district are owned by different persons, while it is now clear that any existing liability for the repair of chancels which attached to the ownership of land in which tithe rent-charge was merged under the Tithe Act, 1839, or under cl. 21 of the Bill, remains unaffected. The appointed day under cl. 2 (Compensation by issue of stock) is now 1st April, 1936, not 2nd October as originally provided. A modification of the provision in cl. 11 that annuities of £1 or less shall be compulsorily redeemed was accepted in the interests of farmers owning land in adjacent tithe districts, it being urged that it often happened that while the bulk of a farm was in one tithe district, one or two fields might be in an adjacent district, and that, as the clause stood in its original form, the tithe annuity on the latter might have to be redeemed compulsorily which would be a real hardship. An amendment to cl. 16, that no action for the recovery of the annuities from the landowners should be taken where any sum due on account of an instalment of an annuity was in arrear for less than three months, was defeated by the narrow Government majority of three. On cl. 43 (Evidence of entries in annuities register and map) an amendment agreed to permits of the inspection of the register and map without payment of any fee. Finally, note may be made of the defeat of an amendment to extend to members of both Houses of Parliament the disqualification from membership of the Tithe Redemption Commission which in the Bill as drafted has reference only to members of the Lower House.

Recent Decisions.

THE destination of the English personal property of a Turkish subject, who died intestate in Switzerland in 1915, was the question in issue in *In the Estate of Marie Musurus, Deceased* (*The Times*, 1st July). The law to be applied was that of the Ottoman Empire in 1915, and it was argued that the fact that the Ottoman Public Trustee disposed of ownerless property for the benefit of poor Moslems and other public purposes on behalf of the Moslem community impressed the property with something of the nature of a trust. This was negatived, and it was held that the property went to the Crown as *bona vacantia*. See *Re Barnett's Trusts* [1902] 1 Ch. 847.

In *Westminster Bank Ltd.* v. *Imperial Airways Ltd.* (*The Times*, 30th June), the plaintiffs obtained judgment on failure by the defendants to deliver a box containing three bars of gold. The case involved consideration of a number of the provisions of the Carriage by Air Act, 1932. Reference must be made to the report for the facts which are incapable of being shortly summarised here.

In *Rex* v. *Sheridan* (p. 535 of this issue), the Court of Criminal Appeal quashed convictions of obtaining goods by false pretences, and of obtaining credit under false pretences or by means of fraud other than false pretences contrary to s. 13 of the Debtors Act, 1869. The accused consented to be dealt with summarily under the latter charge at Petty Sessions and the justices announced that they found him guilty. Certain previous offences were then proved whereupon the justices committed the accused for trial at Quarter Sessions, the charge of false pretences being added later. The Court of Criminal Appeal held that this was a clear case of *autrefois convict*. There was also an absence on the part of the Recorder of any direction as to the necessity for the prosecution to prove an intent to defraud.

Hire-purchase Agreements and Distress for Rent.

THERE are a great many pitfalls in hire-purchase agreements and one which it is of the utmost importance for the owner to avoid is usually overlooked.

The fact must be faced that hire-purchase agreements, whether relating to radio-gramophones, player-pianos, refrigerating machines, gas cookers or the hundred and one other things that people want to buy before they can afford them, are very frequently pressed by the tireless persistence of agents, whose sole thought is for their commission, upon people who have little chance of keeping up their payments. Payments then begin to fall in arrear. The companies who are the owners usually give the hirers a good deal of rope so long as there is a chance of the arrears being reduced within a reasonable time. But the time at last often arrives when the owners have to terminate the hiring for failure to pay the agreed instalments, and this they usually do by written notice as provided by the hire-purchase agreement. The person who cannot keep up his payments is found by experience to be, as a rule, just the sort of person who is most anxious to hang on like grim death to his beloved radio-gramophone, or whatever it may be, and usually would refuse point blank to allow the owners' men to come into his house and remove it. To meet this position the owners very frequently provide in the hire-purchase agreement itself that after the termination of the hiring the owners shall have the licence of the hirer to enter upon his premises for the purpose of re-taking the goods. In the face of this provision the hirer or his wife usually lets the owners' men in, and if they succeed in removing the article in question all is well.

But the man who is in difficulties about keeping up his instalments is more often than not also in difficulties about paying his rent. And if the owner is not very quick and very astute he may find that the landlord has distrained on his goods and that he has lost them altogether. It will be remembered that s. 4 (1) of the Law of Distress Amendment Act, 1908, provides that the exemption from distress given by the Act to the goods of strangers shall not apply to goods comprised in a hire-purchase agreement. If the landlord, therefore, distrains before the hire-purchase agreement has been terminated it is quite clear that the goods are still comprised in a hire-purchase agreement and the owner loses them, being left only with his rights (probably valueless) against the hirer-tenant.

The main point of this article is, however, this, that the owners usually think that if they have terminated the hire-purchase agreement by notice they are quite safe, even if the landlord should put in a distress before their men actually call to remove the goods in question. But that is not so.

It seems very paradoxical at first sight that the goods can remain "comprised in a hire-purchase agreement" even though the hiring has previously been terminated by notice. But such is the case if the agreement contains the usual licence to enter and resume possession. It was decided in *Jay's Furnishing Co.* v. *Brand & Co.* [1915] 1 K.B. 458, that so long as there is still subsisting a contractual right to retake the goods, without which the retaking upon the premises of another would amount to a trespass, the goods are still comprised in a hire-purchase agreement. Lord Justice Buckley, in the above case, said at p. 465 :—

> "I apprehend that chattels remain comprised in an agreement when there is still subsisting some contractual obligation under the agreement relating to the chattels."

And Lord Justice Phillimore says at p. 466 :—

> "I think that these goods were still comprised in a hire-purchase agreement at the date of the distress. I rest my judgment entirely upon the licence to enter upon premises to retake possession of the goods. I do not say that the fact that certain contractual rights remain, as for instance the right to payment of rent or damages for breach of the agreement, would necessarily cause the goods still to be comprised in a hire-purchase agreement, but I do say that when any right remains in respect of the goods themselves, such as the right to obtain possession of them, for which recourse must be had to the agreement, the goods are comprised in a hire-purchase agreement within the meaning of section 4."

Though the advantage is obvious of being able to show the hirer that he has in terms agreed to let the owners take the goods away, the disadvantage outweighs it, for unless the owners are able to send men to collect the goods the moment that the hiring is terminated, which is in practice usually impossible, they run the risk of losing their goods in the event of distress. It is therefore much wiser to omit altogether the clause conferring a licence to enter and retake possession and to rely either on the owners' common law right to sue for the return of their goods or on permission to enter extracted by the persuasiveness of the owner's men when they call for the article. It is perfectly proper for the men to get the tenant to agree to let them enter his house under the threat that if he refuses he is incurring the expense of needless litigation. For such an agreement would be quite independent of the original hire-purchase agreement, and would not have the prejudicial effect upon the goods which has been referred to.

The device of leaving out the offending clause was successfully adopted by the plaintiffs in *Smart Brothers Ltd.* v. *Holt* [1929] 2 K.B. 303, Talbot, J., and Wright, J., holding in that case that the hiring being terminated, and no clause relating to the goods being still subsisting, the goods were not comprised in a hire-purchase agreement. Curiously enough this decision seems to be not at all widely known, for the vast proportion of the hire-purchase agreements that one sees do not profit by it, and the owners are left in danger of losing their goods.

So much for what one may call the hire-purchase part of s. 4. But owners may still be hit under the later part of s. 4, which relates to "goods in the possession, order or disposition of such tenant by the consent and permission of the true owner under such circumstances that such tenant is the reputed owner thereof." This part of the section raises other problems which must be left to a later article.

Cattle Escaping on Highways.

THE extent of a farmer's duty, with regard to fencing land adjoining highways, has been considered in two recent cases. In *Hoyles* v. *Ward*, at Lincoln County Court, the claim was for £10 17s. as damages for personal injuries. The plaintiff had been cycling, in the early morning, when a horse jumped through a hedge and knocked him over. A submission was made for the defendant that an owner or occupier of land adjoining the highway is not bound to fence it to prevent harmless animals from straying. His Honour Judge Langman held that the plaintiff, in order to succeed, must show that the defendant was under some obligation to keep his animals in his field, and prevent them from straying. The law of England, however, knew no such obligation, as roads were only dedicated to the use of the public to enable those using them to pass along. Such road users had to take the chance of meeting any cattle straying from the fields. In these days of fast moving traffic the time had perhaps arrived for the law to be changed so as to compel those who owned fields adjoining the public highways to fence them and keep their cattle in. The owner of cattle was liable to be fined, in a court of summary jurisdiction, but there was no civil liability. Judgment was therefore given for the defendant, with costs.

In *Higgins* v. *Dunning*, at Walsall County Court, the plaintiff had been motoring at night time, and his car was run into and damaged by a cow of the defendant. The amount of damage

was £16 4s., but liability was denied on the ground that there was no duty to keep cattle in; alternatively, the field was properly fenced, but the cow had jumped the gate. In the absence of *scienter* the defendant could not have anticipated such an occurrence, which was probably due to the desire of the cow to find shelter, as she had been turned out for the first time. The plaintiff's case was that the gate, having no hinges, was only chained to the post, and its top bar was only just over three feet from the ground. It was therefore argued that the defendant had been negligent, but His Honour Judge Tebbs held that this question did not arise, as there was no duty to fence. The action was therefore dismissed, with costs.

The absence of any duty to fence, however, is not always a complete answer to a claim for negligence and/or nuisance, as shown by the decision in *Wood* v. *Madders* (1935), 79 SOL. J. 449. The plaintiff had been knocked off his cycle at night by a cow of the defendant, who was subsequently fined under the Highway Act. He denied any liability for damages, at common law, but His Honour Judge Ruegg, K.C., held that, although an owner need not fence his land along a highway, this did not imply that there was no negligence in turning animals on to land unfenced (or imperfectly fenced) when a reasonable man should have known that there was every probability of their escaping on to the highway. The defendant was therefore guilty of negligence, and was also liable for nuisance in allowing an animal to run about on the highway in these days of motor traffic. Judgment was given for the plaintiff for £15 15s. and costs.

In *Heath* v. *Barks* (1935), 79 SOL. J. 449, the same learned county court judge gave judgment for the plaintiff for £3, in respect of damage to a pedal cyclist by colliding with a fowl. The defence was that there was no duty to prevent poultry from straying, but it was held that, although it was not negligence to refrain from fencing a field, it was negligence to turn animals into an unfenced field, which could be used for other purposes.

A farmer may not only successfully defend an action, such as the above, but may also counter-claim for the damage to his own livestock. In *Humphreys* v. *Emberton* (1935), 79 SOL. J. 449, the claim was for £100 as damages for negligence. The plaintiff had been knocked off his motor cycle by colliding with a foal at night time. It transpired that the foal had escaped from the field, owing to the action of the mare (its mother) in undoing the fastening with her mouth. This propensity was known to the defendant, who usually wired the gate, but had omitted to do so on the night in question. His Honour Judge Samuel, K.C., held, however, that the immediate cause of the accident was the negligent driving of the plaintiff. Judgment was accordingly given for the defendant on the claim and counter-claim, with costs. It is to be observed that in this case there was a finding of *scienter* (which was missing in the second-named case, *supra*), but the defendant escaped liability in view of the plaintiff's own negligence.

Cases concerning driven animals are on a different footing from the above, as the question then arises whether adequate precautions were taken to protect other road users from damage. See *Siddals* v. *Reeve* (1935), 79 SOL. J. 829, in which a motorist was successful, and *Robbins* v. *Clapp* (1935), 79 SOL. J. 872, in which a farmer was held to have broken the Highway Code, cl. 107, thereby rendering himself liable for damage.

The conclusion is that the decision in *Heath's Garage Ltd.* v. *Hodges* [1915] 2 K.B. 370, which was followed in the second-named case, *supra*, is inapplicable to modern conditions. The cases of *Wood* v. *Madders*, *supra*, and *Heath* v. *Barks*, *supra*, were not taken to appeal, however, and the principle of those decisions still awaits approval by a superior court.

Different considerations apply to the escapes of cattle from buildings, and other road users have more prospects of success in such cases. See *Deen* v. *Davies* [1935] 2 K.B. 282, and the county court case of *Green* v. *Sargeant* (1936), 80 SOL. J. 69.

A third type of case is that in which damage is caused by the unloading of animals from vehicles. The cause of action is there based on negligence, as in *Drayton* v. *Young* (1935), 79 SOL. J. 209, in which the plaintiff was successful. Difficulties may arise in proving negligence, however, as in *George Whitfields (Wolverhampton) Ltd.* v. *Oliver* (1935), 79 SOL. J. 769, which ended in favour of the defendant.

In view of the uncertain state of the law, a careful examination of the facts is necessary in every case. An apparently minor matter may ultimately make all the difference between success or failure, on the issue of negligence.

Company Law and Practice.

The adequacy of Money's-worth as Payment for Shares.

THE privilege of limited liability which the Companies Act enables the investor to enjoy does involve a certain *quid pro quo* on his part: namely, that the liability up to the limit shall be met and satisfied. *Il faut souffrir pour être belle.* In other words, the members of a company, though their liability is confined to paying for their shares, are required to make the necessary payment. Usually, of course, the investor who takes his shares from the company pays up the nominal amount of those shares in cash; but it is quite legitimate for shares to be paid up in kind, as, for example, by the transfer of property or the giving of services to the company. This, as I need hardly add, involves the filing of a contract in accordance with s. 42 of the 1929 Act. What I want to consider is how far, where you have an allotment of shares by a company in return for a payment in kind, it is necessary for the consideration given to be substantially equivalent to the nominal value of the shares in cash. The following passage from the speech of Lord Watson in *Ooregum Gold Mining Company of India, Ltd.* v. *Roper* [1892] A.C. 125, at p. 136, is an admirable summary of the general position, and I propose to quote it as my text: "A company is free to contract with an applicant for its shares; and when he pays in cash the nominal amount of the shares allotted to him, the company may at once return the money in satisfaction of its legal indebtedness for goods supplied or services rendered by him. That circuitous process is not essential . . . Shares may be lawfully issued as fully paid up, for a consideration which the company has agreed to accept as representing in money's-worth the nominal value of the shares. I do not think any other decision could have been given in the case of a genuine transaction of that nature where the consideration was the substantial equivalent of full payment of the shares in cash. The possible objection to such an arrangement is that the company may over-estimate the value of the consideration, and, therefore, receive less than nominal value for its shares. The court would doubtless refuse to give effect to a colourable transaction, entered into for the purpose or with the obvious result of enabling the company to issue its shares at a discount; but it has been ruled that so long as the company honestly regards the consideration given as fairly representing the nominal value of the shares in cash, its estimate ought not to be critically examined."

Perhaps the best way of examining the question is to take a practical example: A enters into a contract with a company to sell to it property in consideration of the allotment to him of 5,000 fully-paid £1 shares. The contract is carried out, and subsequently the company is wound up. How far is it possible for the liquidator to impugn the transaction and require payment up of the shares—either in full or in part—on the ground that the value of the property given by A was not equivalent to the nominal value of the shares in cash, viz., £5,000? This, in its broadest outlines, was the question which arose in *In re Wragg, Ltd.* [1897] 1 Ch. 796; there property was agreed to be sold to the company for some £46,000, part

of which was to be satisfied by an allotment of £20,000 worth of fully paid up shares. Evidence was offered on behalf of the liquidator that the property was in fact worth some £35,000 only, and he sought therefore to say that the vendors should be made liable to pay up a proportionate part of the amount of their shares. The Court of Appeal held that the adequacy of the consideration could not be inquired into and proof could not be required that the consideration given was equivalent in cash value to the nominal amount of the shares. Lindley, L.J., said: "It is not law that persons cannot sell property to a limited company for fully paid up shares and make a profit by the transaction. We must not allow ourselves to be misled by talking of value. The value paid to the company is measured by the price at which the company agrees to buy what it thinks it worth its while to acquire. Whilst the transaction is unimpeached this is the only value to be considered."

In general, therefore, the adequacy of the consideration given not in cash but in kind in return for the allotment of fully paid shares is not a question which can be inquired into, and the shares must be treated as fully paid up; and this, as Lord Watson pointed out in the *Ooregum Gold Mining Company Case*, may well be calculated to induce companies which are in want of money and whose shares are unsaleable except at a discount to pay extravagant prices for goods or work to persons who are willing to take payment in shares. But it is not quite the conclusion of the matter. Quite apart from the case where the contract can for any reason be impeached by the liquidator so that the whole contract can be set aside with the result that the adequacy of the consideration ceases to be a matter of much moment, there are one or two exceptional cases where the facts relating to the consideration alone may enable him to treat the shares alleged to have been paid for in kind as not fully paid up. Thus, if there is in fact no consideration at all—though by way of a blind a consideration is expressed in the contract—the shares allotted in pursuance of its provisions will not be treated as fully paid. This was the case in *In re Eddystone Marine Insurance Company* [1893] 3 Ch. 9, where a contract was entered into between the company and its shareholders providing for the allotment of fully paid shares to the directors and certain shareholders "in consideration of their past services." The court found, as a fact, that the shares had been given by the company and that there were no services rendered as consideration for the gift, and consequently that the allottees were liable to pay for the shares in full.

Another class of case in which the shares will not be treated as fully paid up is that in which the contract itself makes it manifest on its face that the taker of shares is paying less than their nominal cash value: that is where the contract itself places upon the consideration accepted by the company as money's worth a money value less than the nominal value of the shares. Thus—to adopt the example given by A. L. Smith, L.J., in *In re Wragg, Ltd.*—if there were a contract to supply to a company 100 tons of coal valued at 40s. per ton, as a consideration for 400 £1 shares in the company, the shares would not be fully paid up. Similarly, if the agreement were that the property to be purchased should be valued and that against this property shares should be issued to an extent exceeding the amount of the valuation; in such a case it would be apparent on the fact of the contract that the attempted discharge of a part of the liability was illusory. But this class of case—where the illusory nature of the consideration appears from the contract itself—must be distinguished from the case illustrated by *In re Wragg, Ltd.*, where the property might be shown outside the contract to be worth less than the nominal value of the shares allotted in return.

There is one case which stands rather by itself, though it is, I think, also an example of the class of case in which on the face of the contract the shares to be allotted as fully paid have no relation to the value of the money's worth given by the allottee. I refer to *Hong Kong & China Gas Company Ltd.* v. *Glen* [1914] 1 Ch. 527. There the company entered into an agreement with G to purchase a concession granted to G for the supply of gas: G was to receive 400 shares of £10 each, fully paid up. Further, whenever the amount of the company's paid up capital should be increased above £10,000 the company was to allot to G or his representatives fully paid shares amounting to one-fifth of the increased capital. Stirling, J., held that the contract created an obligation on the company so to allot one-fifth of the increased capital from time to time, but that it did not relieve G or his representatives from paying up the nominal amount of such capital. On the face of the contract the liability to be discharged on one-fifth of all future increases of capital had no relation to the value of the concession. "It is true that an individual may contract to pay for property on any terms, and may find it convenient and choose to pay a price which shall be little or almost nothing in any ordinary event, but shall be increased tenfold or a hundredfold in certain improbable events altogether unconnected with any increase in the value of the property purchased. But I do not see how a limited company can speculate in this way . . . The liability of a shareholder may be discharged either by the meal of cash or the malt of property, services or the like; but this discharge will not take place if it is apparent that the malt bears no relation to the meal, and cannot therefore be estimated as being an equivalent for it. Can it be held here that the definite quantity of malt represented once and for all by the transfer of the concession is to be taken as the equivalent of the obligation to render at any future time or times a wholly indefinite and unlimited quantity of meal?" The learned judge held that it could not.

These somewhat exceptional cases, in which the contract shows on its face that the property is not an equivalent for the amount of the shares, do not, I think, run counter to the common law rule that if there is some consideration for a contract its adequacy is immaterial: for the cases decide not that the contract is bad, but that the provision for treating the shares as fully paid up cannot be enforced because it is contrary to the statutory requirements for the payment up of shares. I need hardly add (though the arguments in some of the earlier cases alleged the contrary) that the filing of the contract under s. 42 in no way replaces the obligation to pay for shares in money's worth; registration will not, so to speak, supply the absent "malt of property." And finally—for I would prefer to end on the note not of the exception but of the common case—the last few cases I have mentioned leave untouched the principle of *Wragg's Case*—that if the contract for sale to the company puts a value on the purchased property which is not fixed dishonestly or colourably that value will be accepted as conclusive for the purpose of determining the extent to which the shares forming the purchase price are fully paid.

A Conveyancer's Diary.

Liability of Purchaser for Estate Duty arising after Conveyance to Him.

THERE is a question on the incidence of estate duty which affects purchasers in some circumstances and may be of no little importance. There is, I think, no decision which touches it.

Suppose that when examining an abstract you find that the land has within the last three years been voluntarily conveyed by A to B, or that the land was formerly settled upon A for life with remainder to B, and A has within the last three years surrendered his life interest to B. B has since conveyed to a purchaser.

If A dies within three years estate duty will be payable and the question is whether the purchaser from B takes free from the estate duty payable on A's death.

Probably most of us at first sight would think that the purchaser was protected by s. 17 (1) of the L.P.A., 1925 :—

" Where a charge in respect of death duties is not registered as a land charge, a purchaser of a legal estate shall take free therefrom unless the charge for duties attached before the commencement of this Act and the purchaser had notice of the facts giving rise to the charge."

Now, in the case I am putting there was not and could not have been any registration at the time of the purchase from B because the claim for duty had not arisen, A being still alive. What then may be the liability of the purchaser ?

It might be said that if on A's death the Inland Revenue registered the claim as a land charge, then and only then the purchaser would be liable.

I think we may dismiss that. It is, at any rate, not likely that such was the intention of the Act.

Perhaps the solution may be found if we look at s. 16 of the L.P.A. By s. 1 it is enacted that a personal representative shall be accountable for all duties which may become leviable or payable on the death of the deceased in respect of land (including settled land) which devolves upon him by virtue of any statute or otherwise. Then s. 2, which is important for the present purpose, reads as follows :—

" In every other case the estate owner (other than a purchaser who acquires a legal estate after the charge for death duties has attached and free from such charge) shall be accountable for all the duties aforesaid which become leviable or payable in respect of his estate in the land or any interest therein capable of being overreached by his conveyance, being a conveyance to a purchaser made under the Settled Land Act 1925 or pursuant to a trust for sale."

It is plain from that sub-section that a purchaser from B would be accountable upon the death of A for the duty payable on A's decease. The purchaser is the estate owner and has not acquired the land on a sale under the S.L.A. or pursuant to a trust for sale.

The only way to reconcile this with s. 17 (1) seems to be to read the latter sub-section as applying only to cases where the claim for duty was existing at the date of the conveyance to the purchaser and was not registered as a land charge. That, at least, is a reasonable construction to put upon s. 17 (1), for it is manifest that the sub-section is concerned with claims which might have been registered at the date of the sale but were not. In the case I am considering the claim could not, of course, have been registered at that time. This construction seems to be consistent with s. 13 (2) of the L.C.A., 1925.

" (2) A land charge of . . . Class D created or arising after the commencement of this Act shall (except as hereinafter provided) be void as against a purchaser of the land charged therewith, or of any interest in such land, unless the land charge is registered in the appropriate register before the completion of the purchase :

Provided that as respects a land charge of Class D . . . this sub-section only applies in favour of a purchaser of a legal estate for money or money's worth."

Class D comprises a charge acquired by the Commissioners of Inland Revenue in respect of death duties.

The expression " a purchaser of the land charged therewith " clearly indicates a purchaser of land charged at the time of the purchase and this appears to support the construction which I have suggested should be put upon s. 17 (1).

The result is that in such a case the purchaser would take the land subject to the duty to become payable on the death of A, should he die within three years after the conveyance or surrender to B.

If the conveyance to the purchaser had been under the S.L.A. or by trustees for sale, the purchaser would have taken free from the claim for duty which would have been overreached by the conveyance. It may be pointed out, however, that a conveyance of settled land with the concurrence of all those beneficially interested and not by the tenant for life under his statutory powers, would not overreach the claim for duty and the point should be borne in mind in such cases.

Of course, if after the death of A the land were conveyed by the first purchaser to another for valuable consideration, and the charge had not been registered, the latter purchaser would take free from the duty and the first purchaser would have to bear it as he was the estate owner at the time when the claim arose.

I may add whilst on this subject that when the claim for duty is not registered as a land charge and the conveyance to a purchaser has been under the S.L.A. or pursuant to a trust for sale, not only is the duty shifted to the proceeds of sale, but the vendor who was the accountable person at the time of the conveyance remains liable. The personal liability of the vendor in those cases continues. That is made clear from the provisions of s. 17 (2) of the L.P.A., which reads :—

" Where a charge in respect of death duties is not registered as a land charge, the person who conveys a legal estate to a purchaser and the proceeds of sale, funds and other property (if any) derived from the conveyance and the income thereof shall (subject as in this Act provided) be or remain liable in respect of and stand charged with the payment of the death duties, the charge for which is overreached by the conveyance, together with any interest payable in respect of the same."

The personal obligation is, therefore, not escaped after conveyance.

Will appointing Executor but making no Disposition.

A question which, as Clauson, J., said, raised " an important point of general interest," was decided in *Re Skeats : Thain* v. *Gibbs* [1936] W.N. 159. A testator made a will on a printed form whereby after revoking all previous wills he appointed his wife to be " my sole executor," and directed that all his just debts, funeral and testamentary expenses should be paid. The will contained the printed words " I give and bequeath unto . . . " but the blank following was not filled up. The will contained no gift or other disposition of property, but was duly executed and attested. The testator died in 1920 and his widow took possession of his assets, the total value of which was about £3,650. The widow afterwards died leaving a will appointing an executor, and giving all her property to a beneficiary. The widow had apparently mixed her late husband's funds with her own and done nothing to keep them separate.

The question was whether the widow became entitled to the whole of her husband's estate under the will made by him, or whether she held it upon trust for division in accordance with s. 46 of the A.E.A., 1925.

It was contended that the widow took beneficially because, as the Executors Act, 1930, had been repealed and replaced by s. 49 of the A.E.A., the law in force before the Act of 1930 applied. On the other hand, it was argued that s. 49 of the A.E.A. applied to this case, but at any rate the definition of " intestate " in s. 55 (1) (vi) covered it. The definition reads " ' Intestate ' includes a person who leaves a will but dies intestate as to some beneficial interest in his real or personal estate." That brought in s. 46, which provides for the manner in which the residuary estate of an intestate is to be distributed.

Clauson, J., held that there was an intestacy and that therefore the widow was entitled to the personal effects and £1,000, and subject to that the widow held the residuary estate in trust for the next-of-kin as defined in s. 46 of the Act. His lordship held that except for the alteration in the class of persons constituting the next-of-kin the law in this respect remained as it had been since the Executors Act, 1930.

Landlord and Tenant Notebook.

Landlords' Covenants Restricting User of Other Premises.

When an intending tenant of a shop seeks to stipulate that the landlord shall not let adjoining property to competitors, he soon finds himself up against theoretical as well as practical difficulties. Apart from such problems as the effect of possible assignments of the reversion, there is the initial question of phrasing the desired covenant. The leading case on the subject may be said to be *Kemp* v. *Bird* (1877), 5 Ch. D. 549 ; 974, C.A. The defendant had let to the plaintiff's predecessor in title certain premises and covenanted in the lease that he would not during the said term demise or let any or either of the messuages or tenements now forming the said street between, etc., to any person or persons whomsoever for the purpose of carrying on the trade or business of an eating-house. One criticism of the covenant might be that it used the word " or " five times quite unnecessarily. More serious is the criticism that when a neighbour, holding of the same landlord, set up a rival establishment the covenantee found that he had no remedy.

Mr. Justice Fry, who tried the case at first instance, must be credited with finding a meaning to attach to the covenant ; it meant, he said, that the covenantor would not grant a lease " with a view to " the business of a coffee-shop or eating-house being carried on ; and his lordship held that the covenant as it stood was " intelligible and reasonable." In the Court of Appeal, James, L.J., endorsed this opinion, and also expressed his lack of sympathy with the plaintiff, because persons who were men of business and able to get protection and advice must make their covenants express what they really meant, etc. Bagallay, L.J., held that the covenant was deliberately devised to modify the stringency of the " ordinary " restrictive covenant. And Cotton, L.J., observed that a landlord was not a trustee for his tenant.

While there is no reason to doubt the validity of the negative parts of these judgments, the cause of all the trouble was probably the popular and excusable fallacy that when premises are let their user is agreed or determined as a matter of course. This fallacy is not merely popular ; it is reflected in statute law ; the Housing Act, 1925, as did its predecessors, speaks of the letting of houses for habitation as if there were no possibility of premises being let *simpliciter*. But what is somewhat puzzling is the positive effect of the covenant " as it stood " suggested by Fry, J., and approved by James, L.J.

On this, however, we have some guidance ; for while *Kemp* v. *Bird* was followed in *Ashby* v. *Wilson* [1900] 1 Ch. 66—in which the competitor was actually so in breach of covenant, but the landlord was held to be under no duty to enforce it—a tenant succeeded, in *Brigg* v. *Thornton* [1904] 1 Ch. 386, C.A., in obtaining a verdict and damages against his landlord who had covenanted not to let other property " for the trade or business . . . hereinbefore mentioned to be carried on by the tenant," which included that of a stationer, and had let to a tenant under a covenant that he (the second tenant) would carry on no business other than that of a librarian, newsagent, bookseller or stationer without consent.

But note that in this case the covenant made no use of the words " the purpose of," which, according to *Kemp* v. *Bird*, means with a view to. One would have thought that, ordinarily, when a man lets premises he does so for the purpose of and with a view to obtaining rent therefrom, and is not concerned with user, save in so far as that purpose is thereby advanced. But it would, perhaps, be over-refinement to suggest that restricting user to a particular business does not mean letting " for " that business, though if both covenants—that in each lease—be read quite literally, it might be observed that the provision restricting the tenant's activities leaves him free to carry on no business at all.

If " intelligible and reasonable," the landlord's covenant in either case seems to be of doubtful value if its only effect is to render him liable for damages if he is careless enough to *restrict* new tenants of neighbouring properties to the specified business. But it is just possible, having regard to the more liberal nature of the interpretation of the *Brigg* v. *Thornton* covenant, that such covenants might be held to be infringed if the covenantor had reason to suppose that his new tenant intended to use the premises for the particular business.

In *Kemp* v. *Bird* the plaintiff's business rival was described in the lease he took as a butler. It is, I believe, not uncommon for retired butlers to find their way into the catering trade, but the practice is not so notorious as to raise a presumption. But if he had described himself as an eating-house keeper, perhaps the court would have held that the defendant had let the premises " for the purpose of " an eating-house.

The only way of ensuring local monopoly would be an absolute covenant entitling the covenantee to damages if premises specified were used for purposes specified. Apart from this, it may be observed that there is now some statutory encouragement to landlords of business premises to restrict the user of one property so as to benefit the tenant of another, for if questions of compensation for goodwill under L.T.A., 1927, arise, he may have an answer of a partial answer to claims : see s. 4 (1) (*e*). It is also interesting to observe that the judiciary as well as the legislature has recognised the fact that restriction of this or similar kind may be desirable ; in *Premier Confectionery* (*London*) *Co. Ltd.* v. *London Commercial Sale Rooms Ltd.* [1933] 1 Ch. 904, a shop and kiosk in the same building were held by the same tenant under separate agreements restricting each to the same user, but the landlords' refusal to consent to the assignment of one only was held to be not unreasonable.

Our County Court Letter.

THE RECONDITIONING OF FARMS.

In *British Estate Services Ltd.* v. *King*, recently heard at Kington County Court, the claim was for £44 9s., as the balance due for work done, and the counter-claim was for £315 16s. 10d., viz., £210 for loss of rent of 84 acres of grass at 50s. per acre ; £11 5s. for loss of a catch crop on 9 acres ; £94 11s. 10d. for additional cost of farming operations. The plaintiffs' case was that they had supplied tractor ploughs and harrows (of a type usually used in Canada) and had done certain work, for which their charges were £104 9s., but only £60 had been paid on account. In a letter of the 26th November, 1934, they had stated that their prices were on a sliding scale, according to ground conditions, but this letter did not constitute a contract to recondition the whole farm. Interviews took place at the farm in April, 1935, with the defendant, but he had never given up control of the operations, and the plaintiffs' employees had merely carried out his instructions. The defendant's case was that he had agreed with the plaintiffs for the reconditioning of the land, which meant putting the land into good heart and condition. They began in April, but the cultivator was broken for a month, and the tractor was taken away in July without his consent. In August the plaintiffs proposed to charge 32s. 6d. an acre for ploughing, instead of 16s., and it would have been cheaper to buy horses for that purpose. His Honour Judge Roope Reeve, K.C., observed that the defendant had reserved the right to be the final judge of what operations were to be done, and the week in which any work was to be executed. The letter of the 26th November was not a binding agreement, but, at most, an agreement to make an agreement. The plaintiffs were therefore entitled to judgment, less an item of £2 14s. for pitch-pole harrowing. Judgment was given for £41 15s. on the claim, and the counter-claim was dismissed, with costs. Compare the leading article entitled " Contracts to make Contracts " in our issue of the 20th June, 1936 (80 Sol. J. 476).

NATIONAL HEALTH INSURANCE.

In a recent case at Plymouth County Court (*Pengilly* v. *Shepherd*) the claim was for £19 6s. 8d. as damages in respect of lost National Health Insurance benefit. The plaintiff's case was that she was employed by the defendant as housekeeper from the 29th November, 1929, at 12s. 6d. a week (afterwards reduced to 7s. 6d.) until May, 1933. Her insurance cards, stamped to date, were handed to the defendant at the commencement of her employment, and 6d. a week had been deducted for insurance. On leaving the defendant's employment, however, the plaintiff found her cards were not stamped. Having lost her next situation after six weeks, through illness, the plaintiff had lost thirteen months' benefit by reason of non-payment of contributions. The defendant denied deducting any sum for insurance, as the plaintiff told him she was exempt, when he asked for her cards. The plaintiff was in good health on leaving his employment, but it subsequently transpired that her employment with him was insurable, and he had paid £10 10s. to the Ministry of Health. His Honour Judge Lias gave judgment for the defendant, without costs.

MILK FOR ICE-CREAM.

In the recent case of *Howard & Johnson* v. *Dimeo* at Torquay County Court the claim was for £3 10s. 3d. for goods supplied, and the counter-claim was for £78 3s. 9d. as damages for breach of contract. The plaintiffs' case was that, in pursuance of an agreement with the Ice-cream Association of Great Britain and Ireland, they had supplied milk to the defendant at 9d. per gallon. A collateral agreement provided that the milk should be delivered warm by 7.30 a.m. each day, in consideration of an extra 2d. per gallon. The amount supplied from the 9th June to the 5th July, 1935, was 320 gallons, all of which came from two sources, and was only on the plaintiffs' premises for half an hour. No complaint about the milk being watered was made at the time, and it was handled under conditions approved by the Paignton Urban District Council. The defendant's case was that, following the installation of a new boiler, on the 29th June, 32 gallons of milk were boiled. After the ingredients were put in the mixture did not thicken properly, and the ice-cream turned sour. The defendant had accordingly bought milk elsewhere, but at 1s. 6d. a gallon, and the difference between the contract price and the market price was the subject of the counter-claim. His Honour Judge Wethered gave judgment for the plaintiffs on the claim and counter-claim, with costs.

Reviews.

Audits of Local Authorities. By Ernest Bedford, F.I.M.T.A., F.S.A.A., A.C.I.S., Borough Treasurer and Accountant of the Metropolitan Borough of Stoke Newington. London: Butterworth & Co. (Publishers) Ltd. 42s. 6d. net.

Even a hasty glance through this work would be sufficient to convince one that the author has given to its creation the benefits of long experience and wide knowledge of the financial workings of local authorities, while a closer examination only serves to confirm this opinion.

The book, containing over 500 pages, is divided into two parts. The first of these, in six chapters, expounds the principles applicable to all audits, to the financial control of local authorities, to statutory audits of local authorities, to internal audit, including its organisation, to municipal audit procedure, and to commercial audits. Part II is in the nature of an appendix, in which, in alphabetical order, reference may be made to over 170 different functions or sub-divisions of functions of local authorities, ranging from the powers of a parish meeting to maintain war memorials, on the one hand, to the special features applicable to higher education, on the other. In every case there are listed (i) the applicable statutes, regulations and circulars; (ii) the local authorities concerned; (iii) the records required; and (iv) the special features relative to the function concerned.

Though, as the author says, this is intended solely as a framework, it will, without doubt, be of great assistance to all persons concerned with the subject of audit.

The work is, in a sense, digressive, in that many matters often considered to be outside the scope of audit have received treatment. Incidentally, the author states that the district auditor's duty to disallow arises in all cases of expenditure which are illegal or contrary to law. No mention is made of matters *ultra vires*, or distinction between illegal and *ultra vires* matters, though, as Lord Cairns pointed out in *Ashbury Railway Carriage Co.* v. *Riche* (1875), L.R. 7 H.L. 653, 672, a matter may be perfectly legal, yet beyond the powers of the corporate body concerned.

The work is of an essentially practical rather than a theoretical nature and contains comprehensive tables of cases, statutes and statutory rules and orders, and a well-ordered index. It should be in the possession of every auditor, whether borough, district, professional or internal, and on the bookshelf of every local authority.

Poisons Law. By Hugh N. Linstead, Secretary of the Pharmaceutical Society of Great Britain. 1936. Demy 8vo. pp. (with Index) 444. London: The Pharmaceutical Press. 5s. net.

This book has been written at the request of the Council of the Pharmaceutical Society for the use of persons carrying on business in the sale of poisons. It is, in fact, an exposition of the law as remodelled by the Pharmacy and Poisons Act, 1933. The author reviews also the provisions of the Dangerous Drugs Acts, 1920–1932, and prints in the form of an Appendix a variety of regulations applicable to the distribution of various sorts of dangerous drugs.

Powers of Attorney. By H. M. Cohen, Solicitor. Fourth edition. 1936. Demy 8vo. pp. viii and 130. Cambridge: W. Heffer & Sons, Ltd. 5s. net.

This is a manual on the law and practice of powers of attorney compiled for and issued by the Council of the Chartered Institute of Secretaries. It is intended for the use both of legal practitioners and business men and embodies all essential statutory enactments relating to powers of attorney, with an exposition of the relevant parts of the Law of Property Act, 1925, and the Trustee Act, 1925, as affecting the subject.

Books Received.

Williams on Vendor and Purchaser. By T. Cyprian Williams, of Lincoln's Inn, Barrister-at-Law and John M. Lightwood, of Lincoln's Inn, Barrister-at-Law. Fourth Edition, 1936. In two volumes. Royal 8vo. Vol. I, pp. ccvii and 744. Vol. II, pp. 745 to (with Index) 1446. London: Sweet and Maxwell, Limited. Price, for two volumes, £4 17s. 6d. net.

The Life and Times of John, Lord Finch. By William H. Terry. 1936. Demy 8vo. pp. xii and (with Index) 814. London: Simpkin Marshall, Ltd. 18s. net.

Jones' Solicitor's Clerk. Part I. Twelfth Edition. 1936. By F. W. Broadgate. Crown 8vo. pp. x and (with Index) 426. London: Sir Isaac Pitman & Sons, Ltd. 5s. net.

The Bell Yard. The Journal of The Law Society's School of Law. No. XVII. May, 1936. Edited by J. G. Foster, M.A., and J. Gold, LL.B. London: The Solicitors' Law Stationery Society. Price 2s.

[All books acknowledged or reviewed can be obtained through The Solicitors' Law Stationery Society, Limited, London, Liverpool and Birmingham.]

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, are responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

De-control of Mortgage.

Q. 3340. A mortgage executed in 1903 consisted of four dwelling-houses all of which became controlled under the Rent Restriction Acts. One of such dwelling-houses has become de-controlled by virtue of s. 1 of the Rent Restrictions (Amendment) Act, 1933; the other three dwelling-houses remain controlled under the Rent Restrictions Acts. Notice to pay off the mortgage was given by the mortgagee in 1910, but has not been complied with. Having regard to s. 9 of the Rent Restrictions Act, 1933, can the mortgagee now sell all, or any one or more, of the dwelling-houses comprised in the mortgage and make a good title as mortgagee in the same way as he could have done before any of the Rent Restrictions Acts came into operation? In other words, has the mortgage now become entirely de-controlled? In this connection sub-s. (6) of s. 12 of the Rent Restrictions Act, 1920, must be considered. If the mortgage became de-controlled on the expiration of six months from the 18th July, 1933, must the rate of interest, which has been increased (without the mortgagor's consent) under the provisions of the Rent Restrictions Acts, be reduced, as from the date of such de-control, to the rate originally fixed by the mortgage?

A. Where part of property comprised in a mortgage is de-controlled so far as relates to the position of landlord and tenant, it would appear that the restrictions on calling in the mortgage contained in s. 7 of the Act of 1920 still apply to the whole property. In that case it is, of course, difficult to see how the mortgagor can claim that the interest should be reduced. The question is a difficult one, but the above appears to be the position.

Auctioneers' Charges.

Q. 3341. A client of ours, the owner of shop premises with fixtures asked certain auctioneers and valuers to value the fixtures for the purpose of sale privately. They were valued at £400 and the auctioneers' fee of 10 guineas was paid. A few of the articles were sold privately and it was then agreed that the auctioneers should sell the remainder by auction, and they were accordingly marked and advertised for sale on a certain date. Before that date our client received an enquiry for the purchase of the shop premises together with the fixtures, and it was agreed that the auction sale should be postponed, but no future date was fixed. The shop premises and fixtures were sold by our client and the fixtures were included in the sale at the price of £200. Our client then informed the auctioneers that the fixtures had been sold, and asked for an account of their charges. The account sent in by them included a certain figure for men's time and advertising together with a charge of £20 as commission on their valuation of £400. Our client has paid the charges for time and advertising, but disputes the £20 charged for commission and contends that there is no liability for this. Will you please let us have your views as to what is the amount (if any) for which our client is liable?

A. The client is only liable for the reasonable remuneration of the auctioneers, and their published scale of charges has no binding force unless expressly incorporated in the contract. On the facts of the case, it appears that the auctioneers are not entitled to commission on the sale of the furniture, as they did not in fact sell it. Nevertheless, they are entitled to damages, by reason of the rescission of the agreement to employ them at the sale by auction. They were thereby deprived of the opportunity of earning the commission, but the latter would only have been calculated on £200, viz., the amount realised. An offer should, therefore, be made of a sum approximately equal to the commission on £200, less the items for wages and advertising charges, already paid.

Whether Premises De-controlled by User.

Q. 3342. A building has been occupied as a house and shop since 1910, and although there have been a few changes in the tenancy, we think it is clear that the landlord has never been in possession of the whole within the meaning of s. 2 of the Rent and Mortgage Interest Restrictions Act, 1923. In November last the tenancy was again changed and the new tenant who accepted the tenancy as a house and shop has since carried on business there, but he has not resided on the premises, nor has he, we believe, had any furniture there other than the fittings and fixtures required for the business. The tenant intends to live on the premises at a very early date. The net rateable value is £20. We shall be glad to have your opinion as to whether or not you consider the property is de-controlled.

A. In this case there appears to be quite a good argument that the property has become de-controlled by user. The dwelling-house having been converted into business premises (see *Hyman* v. *Steward* [1925] 2 K.B. 702; see also *Williams* v. *Perry* [1924] 1 K.B. 136; see also "Wilkinson's Guide to the Rent Acts, 1920 to 1933," pp. 14, 15).

The Moneylenders Act, 1927.

Q. 3343. A is the grantee of a conditional bill of sale on a motor lorry executed by the grantor B in October, 1933. In April, 1934, B gave this lorry to C in part exchange for a new lorry bought from C. C subsequently sells the lorry to X for cash. B continues making payments under the bill of sale to A, assuring him from time to time that the original lorry is still in service. Your opinion is requested as to whether s. 13 (1) of the Moneylenders Act, 1927, will now debar A, who has just become aware of the transaction between B and C in 1934, from an action for damages for conversion against C.

A. The section in question only applies to actions between borrower and lender, and not between the lender and third parties. A will thereby not be prevented from suing C for conversion.

Distribution of Legacy.

Q. 3344. A client of ours has had forwarded to him by his aunt the amount of a legacy under a relative's will with instructions to "please divide among your brothers and yourself." One of our client's brothers is indebted to our client in a sum considerably in excess of the share of the legacy and he, that is our client, wishes to be advised as to whether he has any right to retain his brother's share of the legacy in part payment of the debt due to him (our client). Our view is that neither the question of "set-off" or "lien" arises, and that our client is merely acting as agent for his aunt and has no right to retain the money.

A. The questioners are correct in their view. The client's brother may dispute the indebtedness, and there is no right of retainer applicable to such a case. The aunt may authorise the proposed retention, in part payment of the debt, but her consent should be obtained beforehand.

To-day and Yesterday.

Legal Calendar.

29 June.—On the 29th June, 1807, Colonel Draper, of the Guards, was tried in the King's Bench for a libel on The Right Honourable John Sullivan, one of the Under Secretaries of State for the Colonies. The origin of the trouble was the trial of General Picton on charges arising out of his conduct as Governor of Trinidad. Draper in effect alleged that the whole business was trumped-up and that Sullivan was the chief conspirator. He was found guilty of libel and sentenced to three months' imprisonment and a fine of £100.

30 June.—On the 30th June, 1884, the Crown recovered judgment against Charles Bradlaugh. The claim against him was for a penalty of £500 for sitting and voting in the House of Commons without having complied with the requisite formalities. The trial "at bar" was before Lord Chief Justice Coleridge, Mr. Justice Grove and Mr. Baron Huddleston. The effect of the decision, which was subsequently upheld on appeal, was that a Member of Parliament who did not believe in the existence of a Supreme Being and upon whom an oath had no binding effect as an oath was incapable by law of making and subscribing the oaths necessary before he could take his seat as a Member.

1 July.—On the 1st July, 1896, the German Civil Code, the result of thirty years' labour, was adopted by the Reichstag by a majority of 174 votes. Till then, the legal situation had been chaotic. The 7,000,000 inhabitants of the Rhine provinces were subject to the French Civil Code of 1804. The greater part of Prussia was covered by the Prussian Provincial Law of 1794, but in places this was superseded by more than twenty local codes. Saxony had a relatively modern code of 1863, but most of Germany was administered according to Roman law imported in the fifteenth century. Nowhere was the system of judicial procedure identical.

2 July.—On the 2nd July, 1870, Sir James Bacon succeeded Sir William James as Vice-Chancellor, the last to be appointed to that office before the great changes of the Judicature Act. He and the other Vice-Chancellors retained their title, though the office lapsed. He was many years older than his colleagues, but he survived them all and was still hale and hearty when he retired from the bench in 1886, at the age of eighty-eight. To the end, he showed extraordinary mental and physical vigour. His judgments were terse and concise and his notes were often illustrated by brilliant caricatures of the witnesses.

3 July.—On the 3rd July, 1778, Thomas Erskine, former lieutenant in the Army and future Lord Chancellor, was called to the Bar.

4 July.—On the 4th July, 1777, John Horne was tried before Lord Mansfield for libel. The judge having overruled some objection of his, telling him that if he thought injustice was done him, he had a remedy on appeal, the accused exclaimed: "Oh, my lord, my lord, let me not hear of remedies of your lordship's pointing out; that poison is the most baneful of all which poisons the physic. Your lordship's remedies are worse than the diseases . . . and it is but a poor satisfaction for a man who receives a wound to receive a plaister from the same hand."

5 July.—On the 5th July, 1849, Prince Granatelli was tried at the Old Bailey before Coltman and Maule, JJ., for a breach of the Foreign Enlistment Act. The previous year, revolution had broken out in Sicily and the Provisional Government had dispatched the defendant to England as its envoy. There he fitted out a couple of war steamers and co-operated in trying to raise a body of men to support the insurgents. The prosecution, initiated at the instance of the Sicilian Minister, ended in an acquittal.

The Week's Personality.

When Thomas Erskine was called to the Bar in 1778, he had a very varied experience of life behind him and a good deal of optimism to carry him forward. The son of a very noble, but very impoverished, Scottish earl, he was anxious from the beginning to enter a learned profession, but his father being unable to afford the expense, he went into the navy. Soon he found he hated the sea, but his parents had not the money to buy him a commission in the army, so for some years he had to pursue his unwilling calling, first as midshipman and then as acting lieutenant, contriving to read a great deal, studying botany and practising drawing. When his father died, he laid out all his slender patrimony in purchasing a commission in the 1st Royal Regiment of Foot, but he found the prospects poor, the work uncongenial and the expenses heavy. One day, by chance, he was in an assize court in his regimentals when Lord Mansfield, attracted by his appearance and learning of his connections, invited him to a seat on the bench and commented on the case as it proceeded. On the judge's suggestion, he decided to go to the bar. It was a great risk, for his means were reduced almost to nothing. By the time he was called, "he was so shabbily dressed as to be quite remarkable." So opened the career of the greatest advocate of his time and a future Lord Chancellor.

Criminal Gratitude.

The attempt of the late Dr. Ruxton, by his will made in prison, to bequeath property to his legal advisers was not unique. In his recent reminiscences, Sir Chartres Biron records that his first legacy came from a murderer. The man had killed his wife and her mother and a defence of insanity had failed. Afterwards Sir Chartres who had defended him received a letter thanking him "for your very great kindness to me and the very great exertion you made for my defence." He added: "There is a small balance at my account at my banker's which I have the pleasure to make over to you. I am sorry the amount is not larger." The recipient of this strange gift felt obliged to decline it and never even found out the amount of the account. It is strange how rarely convicted criminals bear malice towards their defenders. In fact, Stinie Morrison in the condemned cell had to comfort his counsel, who had broken down. "Don't cry," he said, "you did your best and I don't mind."

Lawyers in Matrimony.

In a recent case at Liverpool Assizes, the plaintiffs' learned leader suggested in cross-examining a lady that her husband "was like most husbands and did what he was told," whereupon Lewis, J., asked him: "Do you?" but the silk pleaded privilege and declined to give evidence about that. There cannot be said to be any legal presumption as to the matrimonial lot of eminent lawyers. Lord Chancellor Cowper and Lord Chancellor Eldon seem to have been ideally happy, while Monson, J., had a partner who once, on the occasion of a political difference of opinion, tied him up with the help of her maids and beat him till he gave in. In the case of Lord Ellenborough, C.J., there was no question as to whether he or his wife was the dominant partner. Once when he had allowed her to accompany him on circuit on condition that she did not encumber the carriage with band boxes, he found one under the seat and instantly threw it out of the window. But he was sorry afterwards, when, at the journey's end, he found it had contained his wig.

At a general meeting of members of The Auctioneers' and Estate Agents' Institute and their friends to be held at the Kingsway Hall, Kingsway, London, W.C., on the morning of Thursday, 16th July, an address will be given by Lt.-Col. Sir Arnold Wilson, K.C.I.E., C.S.I., C.M.G., D.S.O., M.P. The subject of Sir Arnold's address will be "Can the Auctioneers and Estate Agents save Beauty from the Beast?"

Notes of Cases.

Judicial Committee of the Privy Council.

Sodeman *v.* R.

Lord Hailsham, L.C., Lord Macmillan, and Sir Isaac Isaacs.
28th May, 1936.

Australia (Victoria) — Murder — Insanity — Irresistible Impulse produced by Disease—Whether a good Defence—Burden of Proof.

Petition by A. K. Sodeman for special leave to appeal from conviction before Gavan Duffy, C.J., and a jury on the 18th February, 1936, of the murder of June Rushmer, aged six and a half years. Sodeman was sentenced to death. He also petitioned for special leave to appeal against the dismissal of his appeal by the full Court of the Supreme Court of Victoria, and from the refusal of the High Court of Australia to give him leave to appeal to the Judicial Committee.

The petitioner was a labourer. He took the young girl for a ride on a bicycle, strangled her, tied up her body, stuffed some of her clothing into her mouth, and left her for dead. He had committed three previous murders in very similar ways. The petitioner's defence was that he was insane at the time of killing. At the trial two Government prison doctors and a specialist in mental diseases gave evidence in support of that defence. No expert evidence on that issue was tendered by the Crown.

Lord Hailsham said that the first contention was that the rules in *Macnaghten's Case* (1843), 10 Cl. & F. 200, were no longer to be treated as an exhaustive statement of the law with regard to insanity, and that there was to be engrafted on those rules another rule that, where a man knew that he was doing what was wrong, none the less he might be insane if he was caused to do the act by an irresistible impulse produced by disease. So far as this country was concerned, the more recent cases, finishing with *Rex* v. *Flavell* (1926), 19 Cr. App. Rep. 141, excluded that addition to the law in *Macnaghten's Case*, but it was argued that, since there had been earlier decisions which suggested that such a rule existed, this would be a good opportunity for establishing the law beyond doubt. Their lordships did not think that that was a sound argument. If they were to take a different view of the law from that which prevailed in *Rex* v. *Flavell*, *supra*, and *Rex* v. *Kopsch* (1925), 19 Cr. App. Rep. 50, there would be different standards of law prevailing in England and in the Dominions. The adoption of such a view obviously could not alter the principles laid down by the English Court of Criminal Appeal. The ground suggested was not one for granting special leave to appeal in a criminal case. Next, it was said that the trial judge in directing the jury as to the burden of proof, having stated that it was for the Crown to establish its case beyond reasonable doubt, went on to say that the burden of proof in the case of insanity rested on the accused. It was suggested that the jury might have been misled by the judge's language into the impression that the burden of proof resting on the accused to prove the insanity was as heavy as the burden of proof resting on the prosecution to prove the facts which they had to establish. In fact, there was no doubt that the burden of proof for the defence was not so onerous. The only question was whether the distinction was sufficiently brought home to the minds of the jury by the language used in the summing up. Their lordships did not think that that question could, except in a very clear case, be a ground for exercising the very exceptional jurisdiction which was reserved to that Board in criminal cases. The petition would be dismissed.

Counsel: *D. N. Pritt*, K.C., and *Wilfrid Barton*, for the petitioner; *G. B. McClure*, for the Crown.

Solicitors: *Galbraith & Best; Freshfields, Leese & Munns*.

[Reported by R. C. Calburn, Esq., Barrister-at-Law.]

Court of Appeal.

Matania *v.* National Provincial Bank Ltd. and Others.

Slesser and Romer, L.JJ. and Finlay, J.
20th, 21st and 22nd May, 1936.

Landlord and Tenant—Covenant for Quiet Enjoyment—Derogation from Grant—Second Floor of House Let to Tenant—Subsequent Structural Alterations to First Floor.

Appeal from a decision of Charles, J. (80 Sol. J. 110).

The plaintiff, a teacher of singing, leased the second floor of certain premises from the defendant bank who knew he required the accommodation for teaching singing. There was a covenant for quiet enjoyment. The plaintiff entered into possession in August, 1933. In March, 1934, the bank leased the first floor of the premises to the second defendants, giving them permission to carry out structural alterations to the first floor by removing walls and making one large room of several smaller ones. This permission was subject to the consent of the tenant of the second floor (the plaintiff) being obtained. That consent, however, was never asked for. On the 26th March, 1934, on the instructions of the second defendants, the third defendants, a firm of contractors, began the alterations, work continuing till the 4th July, and causing such noise that the plaintiff was unable to continue to give singing lessons while it lasted. In addition, there was interference with the physical condition of the premises, the floorboards being for a time exposed on the underside with the result that the noise was greatly increased and that a great deal of dust entered the plaintiff's premises. Charles, J., held that the contractors had not caused a nuisance and dismissed them from the action. He also held that the second defendants were not liable, but he found there had been a breach by the bank of their covenant and awarded the plaintiff £150 damages. The bank appealed and the plaintiff cross-appealed.

Slesser, L.J., in giving judgment referred to *Phelps* v. *London Corporation* [1916] 2 Ch. 255, and said that there was evidence that the dust could have been mitigated and there was no evidence that the work causing noise need have been done while the plaintiff was working. When the bank consented to the alterations, it made it a condition that the consent of the other tenants should be obtained, and as this consent was never obtained by the second defendants, the bank could not be said to have consented to the work being done. Could it be said that the bank not having given its consent to those acts was responsible for them? The learned judge had given no weight to the condition imposed by it. His lordship referred to *Wotton* v. *Hele*, 2 Saund., at p. 525, note (3), and said that there was no breach of covenant by the bank and no derogation from its grant. The acts of the second defendants were done without its consent and the bank's appeal succeeded. On the cross-appeal, a different matter arose. His lordship referred to *Harrison* v. *Southwark and Vauxhall Water Co.* [1891] 2 Ch. 409, at p. 413; *Gosnell* v. *Aerated Bread Co.*; 10 T.L.R. 661, at p. 662; and "Kerr on Injunctions," p. 137, and said that in doing the work reasonable skill and care had not been used to avoid creating a nuisance. The judge was wrong in holding that there was no actionable nuisance, for the dust and noise could have been mitigated. The third defendants were independent contractors and ordinarily the employers would not be liable for their wrongful acts, but in *Honeywill & Stein Ltd.* v. *Larkin Brothers* [1934] 1 K.B. 191, amplifying *Dalton* v. *Argus*, 6 App. Cas. 740, and *Black* v. *Christchurch Finance Co.* [1894] A.C. 48, an exception was acknowledged in the case of extra hazardous acts. In this case, it was not a question of danger, but of annoyance, but the principles were the same with regard to liability. If the act done in its very nature involved special risk and there was a failure to take reasonable precautions, it fell within the exception. In this case, noise was inevitable. The question was whether sufficient precautions were taken

to prevent noise and dust reaching the plaintiff. To say that precautions would have prevented the result of the operation did not take it out of the exception made in respect of hazardous acts. It was a hazardous operation to bring noise and dust immediately below the plaintiff's apartment, though the result of that operation could have been avoided. The exception in *Honeywill's Case* applied to nuisance and the second defendants were responsible because reasonable precautions were not taken. The cross-appeal would be allowed.

ROMER, L.J., and FINLAY, J., agreed.

COUNSEL: *Rosburgh*, K.C., *Morle* and *Reginald Knight*, for the bank; *Hunter*, K.C., and *Clement Edwards*, for the plaintiff; *Morris*, K.C., and *De Ferrars*, for the second defendants.

SOLICITORS: *Wilde, Sapte & Co.; Cohen & Cohen; Ashurst, Morris, Crisp & Co.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Marriott *v.* Minister of Health.

Slesser and Romer, L.JJ., and Eve, J.
22nd and 24th June, 1936.

HOUSING—CLEARANCE AREA—COMPULSORY PURCHASE ORDER—PUBLIC LOCAL ENQUIRY—HOUSES DEMOLISHED BY OWNER BEFORE ORDER CONFIRMED—CONFIRMATION OF ORDER—WHETHER WITHIN STATUTORY POWERS—HOUSING ACT, 1930 (20 & 21 Geo. 5, c. 39).

Appeal from a decision of Swift, J. (79 SOL. J. 942).

On the 4th June, 1934, the Nottingham Corporation, by resolution, made two orders, one declaring a certain area to be a clearance area, and the other a compulsory purchase order authorising the compulsory purchase of part of the land in the area. Twenty-seven houses out of the thirty-nine in the area belonged to M. On the 21st July, 1934, M instructed his builder to demolish all the twenty-seven houses and the demolition work began on the 26th. On the 30th, notice of the orders was served on him, and on the 7th August, they were submitted to the Minister. On the 15th August M's solicitors gave notice of objection. On the 2nd October, all twenty-seven houses had been completely demolished. On that date, a public local enquiry, held by an inspector appointed by the Minister, began. At it M's objection was considered and he proved the demolition. On the 16th January, 1935, the Minister confirmed the order, giving as his reason that the expense of providing other accommodation for persons displaced would thereby rank for a grant under s. 26 of the Housing Act, 1930. Swift, J., quashed the order.

SLESSER, L.J., dismissing the Minister's appeal, said that the respondent did not seek to upset the order made in June by the local authorities, but argued that as he had demolished the property before the public local enquiry, there was then no property of his own which the Minister could exercise his powers by confirming the order. The appellant had argued that as the original order was properly made, the Minister had power to confirm it; there might be a question of purchasing surrounding property under s. 3, and under s. 5 the local authority had power to sell or let land subject to a compulsory order. The respondent was right (see Sched. II, para. 5, and s. 1 of the Act). Paragraph 5 gave the Minister power to modify an order by excluding part of the property included in the clearance area and the Minister had to take into consideration the facts as they were at the time of the local enquiry. It was an essential element that there should be buildings to be demolished.

ROMER, L.J., and EVE, J., agreed.

COUNSEL: *The Attorney-General* (Sir Donald Somervell, K.C.) and *V. Holmes; Montgomery*, K.C., *Capewell* and *Marriott*.

SOLICITORS: *Solicitor to the Ministry of Health; Torr & Co.*, agents for *J. H. Simpson, Coulby & Drabble*, of Nottingham.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—Chancery Division.

In re Imperial Chemical Industries Ltd.

Clauson, J. 12th May, 1936.

COMPANIES—REGISTER OF COMPANY—RECTIFICATION—NAME OF SHAREHOLDER—JURISDICTION—COMPANIES ACT, 1929 (19 & 20 Geo. 5, c. 23), s. 100.

C was the registered holder of a considerable number of ordinary and preference shares in the company. Y having produced to the company a transfer purporting to be signed by C, the company put his name upon the register as holder of the shares. On an application by C under s. 100 of the Companies Act, 1929, for rectification of the register by removal of the name of Y, and the substitution therefor of the name of C, Y did not oppose. The application was opposed by a firm of stockbrokers, who claimed certain rights in respect of the shares. On behalf of the applicant it was contended that her signature on the transfer was a forgery, and that, even if this were not so, Y had obtained possession of the documents of title in circumstances which amounted to larceny by a trick.

CLAUSON, J., after considering the evidence, said that he would assume that C did sign the transfer. But, in the circumstances, if the shares were effectively transferred, Y was a mere trustee for her. There was evidence sufficient to justify the court in holding that C's name was without sufficient cause omitted from the register and that Y's name was without sufficient cause placed on it. It had been suggested that if a name had been properly entered on the register there was no jurisdiction to remove it, and that there was only such jurisdiction when it had been improperly put on the register in the first instance. This was not so. The section meant that if without sufficient cause a name stood on the register, there was jurisdiction to take it off. The order asked for must be made.

COUNSEL: *Paull; Evershed*, K.C. and *C. Henderson; C. W. Turner*.

SOLICITORS: *Michael Abrahams, Sons & Co.; Golding, Hargrove & Golding; William Morris*.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Executors of Marshall, deceased, Executors of Hood, deceased, and Rogers *v.* Joly (Inspector of Taxes).

Lawrence, J. 2nd April, 1936.

REVENUE — INCOME TAX — PARTNERSHIP — BUSINESS OF DEALING IN LAND—PARTNERSHIP LAND UNDER DEVELOPMENT—DECEASE OF PARTNER—DECISION TO COMPLETE DEVELOPMENT BEFORE REALISING PROCEEDS AND ACCOUNTING TO EXECUTORS—WHETHER PARTNERSHIP BUSINESS CONTINUED AFTER PARTNER'S DECEASE—INCOME TAX ACT, 1918 (8 & 9 Geo. V., c. 40), Sched. D, r. 10.

Appeal, by case stated, from a decision of the Commissioners for the general purposes of the income tax, confirming assessments under r. 10 of Sched. D, to the Income Tax Act, 1918, in respect of the profits of a trade for the four years ending the 5th April, 1934.

Three partners, Marshall, Hood and Rogers, carried on a business of dealing in land. In 1926 they promoted a company which built houses on the land bought by the partnership, advertised and sold the houses, and subsequently agreed with the partnership what price was to be paid to the partners for the land. In July, 1930, Hood died. In 1932, Marshall died, the assessments under appeal being in respect of profits made after the respective deaths. On Hood's death, his executors required Marshall and Rogers to realise the partnership land remaining unsold and to pay the executors their share of the proceeds. There was no provision in Hood's will enabling his executors to carry on any trade. When Hood

died, the company was in process of building houses on about seven acres of the partnership land, on which sewers and roads had been laid down. Hood's executors and Marshall and Rogers agreed that the only practicable way to realise the seven acres was to allow the company to complete and sell the houses and then account to the executors. That was accordingly done. The remainder of the land unsold at Hood's death was sold by November, 1931, with the exception of one block, the sale of which, having proved difficult, was completed after Marshall's death, in October, 1933. It was contended for the appellants, (1) that Marshall, Hood and Rogers carried on no business jointly after Hood's death in July, 1930, and that the assessment for 1930/31 was therefore bad; (2) that Marshall's and Hood's executors and Rogers at no time jointly carried on any trade, and that the remaining assessments were therefore bad; (3) that the sales of land after Hood's death were not in exercise of a trade, but were realisations of assets after the trade had ceased. Reference was made to *Rand* v. *Alberni Land Company Ltd.* (1920), 7 T.C. 629; *Cohan's Executors* v. *C.S.R.* (1923), 12 T.C. 602. It was contended for the Crown that neither death affected the nature of the subsequent dealings in land. The Commissioners held that the agreement to complete the development of the seven acres was an agreement to "carry on as before," and that the trade of dealing in land was carried on until the last block of land was sold in 1933, and they confirmed the assessments.

LAWRENCE, J., said that the only right of the executors of the deceased partner was to an account of the deceased testator's share of the proceeds. They had no right to the land itself. The commissioners had had to decide whether there was any evidence that the executors agreed to carry on the trade in land which had previously been carried on by the three partners. In his (his lordship's) opinion, there was no such evidence. The facts did not support the finding that there was an agreement to carry on as before. There was merely an agreement that the executors should postpone their rights to an account and to their share of proceeds, until the practical time for realising the assets had arrived. The assessments could not stand and the appeal must be allowed.

COUNSEL: *T. Donovan*, for the appellants; *The Attorney-General* (Sir Donald Somervell, K.C.), and *R. P. Hills*, for the Crown.

SOLICITORS: *Barnes & Butler; Solicitor of Inland Revenue.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Joly (Inspector of Taxes) *v.* Pinhoe Nurseries Limited.

Lawrence, J. 3rd April, 1936.

REVENUE—INCOME TAX—BANKRUPTCY—PREVIOUS CONVEYANCE OF PREMISES AND BUSINESS BY DEBTOR TO COMPANY DECLARED VOID—POSSESSION BY TRUSTEE—COMPANY LEFT IN POSSESSION—BASIS OF ASSESSMENT—INCOME TAX ACT, 1918 (8 & 9 Geo. 5, c. 40), Sched. B; Sched. A, No. VII, Rule 2.

Appeal by the Crown against a decision of the commissioners for general purposes of Income Tax, allowing an appeal by the respondent company against assessments made on them for the years 1931-32, 1932-33, 1933-34, under Sched. B, in respect of profits from nurseries.

The agreed facts were as follows: Before 1931, one, Moxey, carried on business as a nurseryman. In May, 1931, the respondent company was formed. Later in 1931, Moxey conveyed and assigned to the company the freehold lands comprising the nurseries and the whole of his property, real and personal, the company taking possession on the 30th September, 1931. In January, 1932, a receiving order was made against Moxey. An order of adjudication having been made, a trustee in bankruptcy was appointed in July, 1932. There was only one creditor in the bankruptcy, the debt being some £50. In October, 1932, an order was made in the county court setting aside and declaring void all Moxey's dispositions in favour of the company in 1931. The trustee took possession of the nurseries and required the business to be carried on as before. He took over the company's cash balance at the bank. The trustee then agreed to sell the whole of the bankrupt's assets to the company for a sum sufficient to satisfy the admitted proof of the only creditor, and certain dues. The transaction was completed on the 9th March, 1933, and Moxey was granted his immediate discharge in June, 1933. It was contended for the respondents that in view of the judge's order that the dispositions made by Moxey in October, 1931, were fraudulent and void, and of the trustee's subsequent conduct, he had elected to treat the respondents as holding the premises and carrying on the business as his agents; that the respondents were not occupiers of the nurseries until the 9th March, 1933, so as to be assessable under Sched. B; that, in any event, the respondents did not occupy the nurseries between the 26th October, 1932, and the 9th March, 1933; and that, from and after the 9th March, the respondents ought to be assessed as having begun a new business on that date. It was contended for the Crown that the respondents occupied the nurseries from the 30th September, 1931, until the 26th October, 1932, and from the 9th March, 1933, and that the assessments made on them were accordingly correct. The commissioners decided in favour of the respondents.

LAWRENCE, J., said that the respondents' contention was that, by virtue of s. 37 of the Bankruptcy Act, 1914, the trustee's title related back to the act of bankruptcy, on which a receiving order was made against the bankrupt, and that, in those circumstances, in accordance with *In re Simms* [1934] Ch. 1, the trustee was entitled, where a conveyance was set aside, to treat the person in possession of the property conveyed either as a trespasser or as an agent, and that in the present case he had treated the respondents as his agents. The company, it was therefore argued, could not be treated as occupiers for the purposes of Sched. B, within the meaning of r. 2, No. VII, of Sched. A, which was applicable to Sched. B. It was said that it was the trustee who was during the material time in beneficial occupation of the premises. In his (his lordship's) opinion, that argument was not sound. The words in the rule meant "... having the beneficial use of any lands..." It was not possible, for the purposes of that rule and of the Income Tax Acts, to alter the person who was the occupier by reference to doctrines of law which were introduced by the Bankruptcy Act. It had been said in the leading rating cases, *The Holywell Union Case* [1895] A.C. 117, and *Liverpool Corporation* v. *Chorley Union Assessment Committee* [1912] 1 K.B. 270, that occupation was a question of fact, and he (his lordship) thought that the rule was contemplating the person who was the occupier in the sense that he had the beneficial use of the lands from day to day. That that view was probably right was confirmed by the fact that the relation back of a trustee in bankruptcy's title might, under s. 172 of the Law of Property Act, 1925, be for a long period which would cover the assessment of income tax under Scheds. A and B, over several years. In such cases, the tax would have been assessed on and paid by the person who was in fact in occupation long before the appointment of the trustee.

COUNSEL: *The Attorney-General* (Sir Donald Somervell, K.C., and *R. P. Hills*, for the appellant; *Maurice Lyell*, for the respondents.

SOLICITORS: *The Solicitor of Inland Revenue; William Webb & Sons.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

The next General Quarter Sessions of the Peace for the Borough of Walsall will be held at the Guildhall, Walsall, on Thursday, the 23rd July, 1936, at 10 o'clock in the forenoon.

Symes and Others *v.* Essex Rivers Catchment Board.

Atkinson, J. 21st, 22nd, 23rd, 24th, 27th, 28th, 29th, 30th April; 1st, 4th and 14th May, 1936.

Drainage—Sea Wall—Sluice Through—Removal of by Drainage Authority—Powers—Land Drainage Act, 1930 (20 & 21 Geo. 5. c. 44), s. 34.

Action for damages and an injunction in respect of interference by the defendants with a drainage system enjoyed by the plaintiffs.

The plaintiffs were the occupiers of plots of land on an estate called Tendring, situated on a low-lying part of the Essex Coast on the seaward side of a sea wall running east and west, and accordingly not protected by any sea wall. Inland, on the other side of the sea wall, Tendring was bounded by an area of grass land. On the estate, alongside of the sea wall, on the seaward side, was a ditch, into which surface and sea water collecting on the estate flowed. On the landward side of the sea wall was a dyke which was one of those draining the grass land. That dyke led to a main watercourse which emptied itself into the sea at a sluice called Bond's Sluice. One, Stedman, wishing to develop Tendring as a building estate for bungalows, acquired both Tendring and the grass land. The ditch and the dyke were connected by a very old culvert which was in a ruinous condition and hardly conducted any water. Stedman, with the knowledge and consent of the district drainage board concerned, replaced the culvert by a sluice built in the ground under the sea wall between the ditch on Tendring and the dyke on the grass land. Thus, water collecting on Tendring flowed into the ditch, passed into the dyke and ultimately reached the sea by Bond's Sluice. In 1931, Stedman had the Tendring estate conveyed to his daughter in trust for himself. This severance in the ownership of Tendring and the grass land created an implied right, by way of continuous and apparent quasi-easement, in the owner of Tendring to send surface and sea water through the sluice into the dyke on the grass land, the level of Tendring being the higher of the two. At the end of 1931, the defendant board became the drainage authority for the district and they accepted Stedman's sluice between the ditch and the dyke, so that it became an existing drainage work. In September, 1935, the defendants blocked up Bond's Sluice, which had been in disrepair for many years. The levels in the dykes draining the grass land accordingly rose. At the same time, owing to abnormally high tides, a considerable quantity of sea water collected in the ditch and flowed through into the dyke. A farmer having complained that he feared contamination of his fresh water by sea water, owing to the rise in level caused by the blocking of Bond's Sluice, the defendants closed Stedman's sluice, and ultimately removed it and remade the sea wall. An abnormal period of rain having set in, serious flooding occurred on Tendring. An appeal to the Ministry of Health having proved unavailing, because certain information was withheld from them by the defendants, the plaintiffs brought this action. *Cur. adv. vult.*

Atkinson, J., said that the defendants' chief proposition had been that no one could claim a right to maintain a breach in a sea wall, and that no one, not even the Crown, could permit a breach in a sea wall or properly permit anyone to maintain such a breach. The defendants had applied that argument to Stedman's sluice, regarding it as a breach in the sea wall. As authority for the proposition, they had cited *Attorney-General* v. *Tomline* (1880), 14 Ch. D. 58, where the law was clearly stated by James, L.J., at pp. 61, 62. In that case, the plaintiff had established that, if what was being done to the sea wall went on, his land would be injured. Here there was no evidence of injury from any cause, but the defendants' own act in blocking up Bond's Sluice. The principle laid down in *Tomline's Case*, *supra*, must, in his (his lordship's) opinion, be subject to some limitations. The principle was laid down with reference to alleged breaches where adjoining landowners could make out a case of damage. If the principle were to be carried as far as the defendants wished, there could be no sluice in the sea wall for any purpose, even for that of protecting the wall or of allowing water to escape through the wall into the sea. He (his lordship) could not think that a sound proposition of law. *Board of Works for the Greenwich District* v. *Maudslay* (1870), L.R. 5 Q.B. 397, showed that the defendants' proposition went too far. The defendants would accordingly have to justify their removal of Stedman's sluice by the powers conferred on them by the Land Drainage Act, 1930, s. 34 being that mainly relied on. In his (his lordship's) opinion, the removal of the sluice could not be justified by reference to any section of the Act of 1930. There was an easement in favour of Tendring which the defendants might very well have to purchase if they wished to end it. It had been argued for the plaintiffs that the defendants had acted *ultra vires* because they acted harshly and unreasonably, and *Howard-Flanders* v. *Maldon Corporation* (1926), 90 J.P. 97, where Scrutton, L.J., had laid down a very clear principle, was cited. In his (his lordship's) opinion, the defendants had so acted in closing the sluice without regard to the flooding of the houses on Tendring which resulted. The plaintiffs were entitled to succeed.

Counsel: *Montgomery*, K.C., and *G. O. Slade*, for the plaintiffs; *Beyfus*, K.C., and *G. Hutchinson*, for the defendants.

Solicitors: *Leonard Tubbs & Co.; Tamplin, Joseph, Ponsonby, Ryde & Flux*, Agents for *W. Hilliard & Ward*, Chelmsford.

[Reported by R. C. Calburn, Esq., Barrister-at-Law.]

R. *v.* Sheridan.

Lord Hewart, C.J., Humphreys and Hilbery, JJ. 29th June, 1936.

Criminal Law—Prisoner found Guilty at Petty Sessions but not Sentenced—Decision to Commit for Trial at Quarter Sessions—*Autrefois Convict.*

Appeal against conviction.

The appellant was convicted at Southend Borough Quarter Sessions on both counts of an indictment charging him in the first count with obtaining goods from one, Tredgett, by false pretences with intend to defraud, and in the second count with obtaining credit to the amount of 24s. from one, Patten, under false pretences or by means of fraud other than false pretences, contrary to s. 13 of the Debtors Act, 1869. He appealed by leave of the court against both convictions. At the hearing, the court allowed the appeal, quashed the convictions, and ordered the discharge of the appellant. The appellant was originally charged, at petty sessions, only with the offence of obtaining credit from Patten contrary to s. 13 of the Debtors Act, 1869, and consented to be dealt with summarily. He pleaded not guilty. Evidence was called for the police, who were the prosecutors, and the appellant gave evidence on his own behalf. At the close of the case, the justices announced that they found the appellant guilty. In order to assist the court on the question of sentence, a police officer then proved certain previous convictions against the appellant, whereupon the magistrates announced that they would not deal with the case but would commit the appellant for trial at Quarter Sessions, and they remanded him for a week. On the remand, the charge of obtaining goods by false pretences from Tredgett was added, and became the first count of the indictment.

Humphreys, J., giving the judgment of the court said, with regard to the first count, that it was unsatisfactory in particular in that there was no direction to the jury that intent to defraud was an essential part of the case to be proved by the prosecution. The conviction on that count could not stand. As to the second count, the facts seemed to show a plain case of *autrefois convict*. The accused was convicted at petty sessions by a court of competent jurisdiction of precisely the same offence, and on precisely the same facts

as were relied on in support of what became the second count of the indictment before Quarter Sessions. It had been argued for the Crown that there could be no conviction such as would support a plea of *autrefois convict* unless there was also a sentence. In the opinion of the court, that was not the law. In *Reg.* v. *Blaby* [1894] 2 Q.B. 170, the question to be decided was the meaning to be given to the word "conviction" in a statute. It was argued for the prisoner that conviction must include judgment or sentence, but a very strong Court for Consideration of Crown Cases Reserved held that the word "conviction" in such a connection merely referred to a plea of guilty by the accused or the finding of a verdict of guilty by a jury. That decision was in point in the present case, as were the judgments to the same effect in *R.* v. *Miles* (1890), 24 Q.B.D. 423, and in particular the judgment of Charles, J. Their attention had also been directed to *R.* v. *Hertfordshire Justices* [1911] 1 K.B. 612. That case was without doubt rightly decided, but there there was no adjudication on the charge by the justices. In the opinion of the court, the present was a case where the justices had proceeded to adjudicate by convicting the defendant, and accordingly the plea of *autrefois convict* was established. With regard to the right of justices to enquire into the character and antecedents of a person before proceeding to convict, it was plain from s. 24 (1) of the Criminal Justice Act, 1925, that justices were now required, as a preliminary to dealing summarily with an indictable offence, to hear and take into consideration, *inter alia*, the character and antecedents of the accused, in order to enable them to decide whether they ought to deal with the case summarily.

COUNSEL: *J. E. M. Gunning*, for the appellant; *Eustace Fulton*, for the Crown.

SOLICITORS: *The Registrar of the Court of Criminal Appeal; The Director of Public Prosecutions.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Court of Criminal Appeal.

R. *v.* **Gee; R.** *v.* **Bibby; R.** *v.* **Dunscombe.**

Lord Hewart, C.J., du Parcq and Goddard, JJ.
1st May, 1936.

CRIMINAL LAW—EVIDENCE—EXAMINATION OF WITNESSES AT PETTY SESSIONS—NON-COMPLIANCE WITH STATUTORY PROVISIONS—EFFECT OF ON SUBSEQUENT COMMITTAL FOR TRIAL—INDICTABLE OFFENCES ACT, 1848 (11 & 12 Vict. c. 42), s. 17—ADMINISTRATION OF JUSTICE (MISCELLANEOUS PROVISIONS) ACT, 1933 (23 & 24 Geo. 5, c. 36), s. 2 (2).

Appeals against convictions at Oldham Borough Sessions.

The three appellants were charged with shopbreaking at a court of petty sessions. The witnesses were examined at petty sessions by the Chief Constable from a prepared typed statement analogous to a proof. A copy of the statement was handed to the clerk of the court, and another copy to the magistrates. Nothing was taken down by the magistrates in writing, but the prepared statement was checked by the clerk and ultimately signed by each witness. The defendants had no copy of the statement. When, the appellants having been committed for trial, the matter came before the Recorder of Oldham, objection was taken to the procedure adopted at petty sessions. He adjourned the case to the following sessions on the 13th March, when the same objection was taken, but he then decided that he was bound to try the indictment. The appellants were then convicted and sentenced to seven months' imprisonment. By the Indictable Offences Act, 1848, s. 17: " . . . where any person shall . . . be brought before any justice . . . charged with any indictable offence . . . such justice . . . before he . . . shall commit such . . . person . . . for trial . . . shall, in the presence of such accused person, who shall be at liberty to put questions to any witness produced against him, take the statement on oath or affirmation of those who shall know the facts . . . of the case, and shall put the same into writing, and such depositions shall be read over to and signed respectively by the witnesses . . . and shall be signed also by the justice . . . taking the same . . . " By s. 2 (2) of the Administration of Justice (Miscellaneous Provisions) Act, 1933, " no bill of indictment charging any person with an indictable offence shall be preferred unless . . . the person charged has been committed for trial for the offence . . . " For the Crown, it was admitted that the provisions of s. 17 of the Act of 1848 had not been complied with, but it was submitted that it would have been more appropriate for the appellants to move for a rule for *certiorari* to quash the indictment.

GODDARD, J., giving the judgment of the court, said that the serious ground of appeal was that the appellants were never lawfully before the court of quarter sessions, because there had been no committal for trial within the meaning of s. 2 (2) of the Act of 1933. It appeared that for many years a practice had prevailed at the police court at Oldham under which, when an indictable offence was being investigated, the Chief Constable first interviewed the witnesses, as he was entitled to do, and took a statement from them. One of the objects of the Act of 1848 was to standardise the procedure, and it was of the utmost importance that magistrates should understand that there should be strict compliance with the provisions of the Act. It appeared to the court that the proceedings at petty sessions were so defective that there was no lawful committal for trial, and consequently s. 2 (2) of the Act of 1933 had not been complied with and no bill of indictment could be preferred against the appellants. The document, purporting to be an indictment, which was produced before the Recorder, was not an indictment, and the appellants could not be tried on it. The Recorder had thought that he was bound to try the indictment. In the opinion of the court, that was wrong. Though the appellants might have moved by *certiorari* to quash the indictment, the fact that they did not do so did not make a bad indictment a good one. There had really been no trial at all. Under *Crane* v. *Director of Public Prosecutions* [1921] 2 A.C. 299, the court had power to order that a proper trial should take place, and in that case the proceedings would begin again from the point where they broke down. The court also had the power in such circumstances to quash the conviction and allow the appellants to be discharged. In all the circumstances of the present case, the court was of opinion that that was the proper order to make. The court expressed the hope that magistrates in Oldham, and in any other court where a similar practice might have prevailed, would in future comply strictly with the provisions of the Indictable Offences Act, 1848.

COUNSEL: *R. N. Bibby-Trevor*, for the appellants; *D. Hamwee*, for the Crown.

SOLICITORS: *Registrar of the Court of Criminal Appeal; Director of Public Prosecutions.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Obituary.

SIR WILLIAM MIDDLEBROOK.

Sir William Middlebrook, Bart., solicitor, a partner in the firm of Wm. & E. H. Middlebrook & Grove, of Leeds, died at his home at Scarborough, at the age of eighty-five. Sir William was educated at Huddersfield College, and was admitted a solicitor in 1873. He was twice chosen as Mayor of Morley, and received the freedom of the borough in 1919. In 1910 he was elected Lord Mayor of Leeds, and received the honorary freedom of that city in 1926. Sir William was elected Liberal Member of Parliament for South Leeds in 1908, and held the seat until 1922. He received the honour of knighthood in 1916, and was created a baronet in 1930.

HIS HONOUR B. H. BERLYN.

His Honour Bernard Henry Alfred Forbes Berlyn, a former Judge of the Supreme Court of the Leeward Islands, died at Roseau on Saturday, 27th June, at the age of fifty. He was educated at St. Paul's School, and was called to the Bar by Gray's Inn in 1921. He joined the Colonial Service in 1923, and became Acting Circuit Judge of Ashanti and the Northern Territories. He was appointed a Puisne Judge of the Leeward Islands in 1927, and was Acting Chief Justice in 1928. He retired last year.

MR. H. W. BERTHON.

Mr. Harold Warwick Berthon, T.D., solicitor, senior partner in the firm of Messrs. Berthon, Son & James, of Lydney, died on Saturday, 27th June, at the age of sixty-five. Mr. Berthon was admitted a solicitor in 1894, and shortly afterwards took over the practice of Messrs. James & James, of Lydney. He was Vice-President of Gloucestershire and Wiltshire Law Society last year, and he was also a former Clerk of Lydney Rural Council. Mr. Berthon was a member of the Territorials, and retired in 1910 with the rank of Major.

MR. C. E. BROWN.

Mr. Colin Edwin Brown, solicitor, of Whitby, died on Thursday, 25th June, at the age of fifty-eight. Mr. Brown served his articles with the Town Clerk of Bridgwater, and was admitted a solicitor in 1901. He went to Whitby in 1909, and for a time he was in partnership with Mr. Wilkinson, of Scarborough, and Mr. Wharton, of Scalby. Later he became head of the firm of Colin Brown & Co., of Whitby.

MR. W. HILLIARD.

Mr. Walter Hilliard, solicitor, a partner in the firm of Messrs. W. Hilliard & Ward, of Bishopsgate, E.C., and Chelmsford, died at Brighton on Tuesday, 30th June, at the age of sixty-eight. Mr. Hilliard was admitted a solicitor in 1891.

Societies.

Inns of Court.

CALLS TO THE BAR.

Wednesday, 24th June, was Call Night at the Inns of Court. The following were called :—

LINCOLN'S INN.

Keshao Mahadeo Ganorkar, University College, Edinburgh, M.A., Rebati Raman Chaudhuri, Calcutta University, B.A., J. C. Warr, St. John's College, Oxford, B.A., F. W. N. Weston, Wadham College, Oxford, B.A. (Hons.), F. E. Figgures, New College, Oxford, B.A., J. A. E. Davies, Trinity College, Cambridge, B.A., Bhagwandas Kundandas Keswani, London University, Balasheb Hanmantrao Khardekar, Fitzwilliam House, Cambridge, Bombay University, B.A., D G Dean, Corpus Christi College, Oxford, B.A., Gopalaswami Parthasarathi, Wadham College, Oxford, B.A. (Hons.), Anjoy Nath Roychowdhry, Calcutta University, B.A., Nilratan Saha, Durham University, H. Lester, London University, I. A. J. Rosselli, member of the Paris Bar, Panchanan Basu, London University, B.A. (Hons.), Calcutta University, B.A., J. Monckton, T. M. Banks, Fitzwilliam House, Cambridge, B.A., D. Jeremiah, W. H. Courtenay, Jadanji Jeram Ashar, Bombay University, B.A., LL.B. (1st Class Hons.), London University, Subodh Chandra Mitra, Calcutta University, B.L.

INNER TEMPLE.

A. S. P. Ayyar (holder of a Certificate of Honour awarded Trinity Term, 1936), St. Catherine's Society, Oxford, M.A., P. G. D. Sixsmith, Lincoln College, Oxford, B.A., Mrs. J. M. C. Jullien, N. C. A. Ridley, Trinity College, Cambridge, B.A., L. F. Leversedge, St. John's College, Cambridge, M.A., N. G. Nightingale, St. John's College, Cambridge, B.A., M. F. Rahman, Oriel College, Oxford, B.A., M. Mahanti, University of London, M. E. M. Harvey, Trinity College, Cambridge, B.A., C. S. Findlay, University of Edinburgh, M.A., LL.B., T. B. Jameson, M.C., Queens' College, Cambridge, M.A., C. Q. Henriques, Worcester College, Oxford, B.A., B.C.L., P. H. B. O. Smithers, Magdalen College, Oxford, B.A., A. M. C. Johnson, Attorney-at-Law, Bahamas, A. C. Bulger, Oriel College, Oxford, B.A., B.C.L., W. R. B. Foster, Corpus Christi College, Oxford, B.A., C. D. W. O'Neill, Balliol College, Oxford, B.A., and Fellow of All Souls College, Oxford, P. L. H. Hathorn, Pembroke College, Cambridge, B.A., A. R. P. du Cros, Magdalen College, Oxford, Miss G. I. Preston, G. A. Brathwaite, Emmanuel College, Cambridge, B.A., J. R. B. Moser, Lincoln College, Oxford, B.A., J. E. Winocour, Magdalen College, Oxford, B.A., A. S. Trapnell, Jesus College, Cambridge, B.A., J. M. Baillieu, Magdalen College, Oxford, B.A., E. G. W. Hulton, Brasenose College, Oxford, I. G. Briggs, medical practitioner, Miss M. Salisbury, University of Wales, B.A., J. M. Buckland, Keble College, Oxford, B.A., C. O. Camps, L. K. A. Block, C. Hackforth-Jones, Wadham College, Oxford, B.A., J. G. St. G. Syms, Magdalen College, Oxford, B.A., R. F. Storey, Trinity College, Cambridge, B.A.

MIDDLE TEMPLE.

A. S. Orr (holder of a Certificate of Honour awarded Trinity examination, 1936), M.A., Edinburgh University, B.A., Balliol College, Oxford, Barstow Scholar, Harmsworth Law Scholar, C. F. J. Baron, James Greig Shearer, M.A., Edinburgh University, Tan Joo Eow Tandavanitj, Dewan Narendra Nath Khosla, B.A., Exeter College, Oxford, Kumaril Vinayak Mehta, B.Sc. (Econ.), London University, Ahmed Husein Macan-Markar, B.A., St. Catharine's College, Cambridge, J. N. Kemp, P. A. T. H. Harmsworth, Merton College, Oxford, L. G. Scarman, B.A., Brasenose College, Oxford, Harmsworth Law Scholar, A. M. Blake, B.A., Magdalene College, Cambridge, Harmsworth Law Scholar, Tanjore Rajagopalan Subramanian, B.A. (Hons.), Madras University, W. E. A. Callender, A. E. Holdsworth, M.A., Gonville and Caius College, Cambridge, R. N. Hales, A. E. Hunter, B.A., The Queen's College, Oxford, G. G. Fischer, B.A., University College, Oxford, B. R. Clapham, LL.B., London University, G. S. Gardner, B.A., M.B., B.Ch., B.A.O., Dublin University, Amarnath Kashyap, B.A., Fitzwilliam House, Cambridge, Baroness Adda L. C. von Bruemmer, Diplomee de l'Ecole Libre des Sciences Politiques, Paris, Certificate, Academy of International Law, The Hague, J. W. McRobert, O. Kahn-Freund, LL.M., London University, Dr. Jur., Frankfurt University, Kamakhya Charan Mukherjee, M.Sc., B.L., Calcutta University, Amar Nath Grover, M.A., Punjab University, J. S. Crill, Advocate of the Royal Court of Jersey, R. H. Landman, B.A., Trinity College, Cambridge, Blackstone Prizeman, R. B. C. Parnall, B.A., Oriel College, Oxford, G. E. Berouti, LL.B., London University, B.A., American University of Beirut, W. Sexton, Balkrishna Vithaldas Trivedi, B.A., Bombay University, C. M. Lavington, R. M. A. C. Talbot, B.A., Magdalene College, Cambridge, E. G. Aboukalil, Licencie en Droit, Paris, Ram Rang Chhabra, B.A., Punjab University, J. S. W. Twiselton-Wykeham-Feinnes, B.A., Balliol College, Oxford, Harmsworth Law Scholar.

GRAY'S INN.

W. A. Gordon-Hall, undergraduate, Trinity College, Oxford, F. H. McCleary, District Commissioner, Colonial Service, Sierra Leone, B. R. Whitehouse, B.A., St. John's College, Cambridge, W. A. C. Goode, B.A., Worcester College, Oxford, J. McLagan, Senior Collector of Customs, Gold Coast Colony, E. J. King, M.C., undergraduate, Trinity College, Dublin, W. St. J. C. Tayleur, B.A., and sometime Scholar, The Queen's College, Oxford, Lord Justice Holker Junior Scholar, Gray's Inn, 1932, F. B. Oehlers, N. Krause, Licenciée-en-Droit, University of Paris, Mary K. F. Kitchin, M.Sc., M.B., B.S., University of London, T. R. Whittingham, formerly solicitor, H. Diamond, LL.B., University of Liverpool, E. E. Youds, B.A., LL.B., Magdalene College, Cambridge, Jean L. Kirkhope, W. E. Windham, Nahum Segal, LL.B., University of Liverpool, J. T. Plume, undergraduate, University of London, Saada Frumkin, undergraduate, University of London, R. E. L. Schless, Doctor of Laws, University of Leipzig, O. C. F. W. Prausnitz, Doctor of Laws, University of Breslau, C. G. Monk, B.A., Trinity Hall, Cambridge, Rashad Abdul-Rahim Hannun, LL.B., University of Liverpool, P. Weidenbaum, Doctor of Laws, University of Frankfort-on-Main, W. S. Chaney, formerly solicitor.

The Hardwicke Society.

This Society held its annual dinner at the Café Royal on the 29th June, with Mr. Henry Mayers, the President, in the chair.

THE MARQUESS OF LONDONDERRY, in proposing the health of the Society, spoke of on his recent popularity with the newspapers, as indicated by headlines, and admitted a deep debt of gratitude to the Press. Some who had played at public life in different forms, had found themselves in great difficulties with the Press. Once, when he had made a rather funny and sarcastic speech in complete opposition to his own real

view, the audience had enjoyed it very much and had accepted it in the spirit in which it was meant. Unfortunately, the reporter had taken it quite seriously, and his lordship had been obliged to write a long letter of explanation to *The Times* next day. On another occasion he had been accused by the Sunday papers of sacking the referee of the Cup Final, the truth being that that officer had been doing nothing but refereeing for a considerable time and considered that he could not go on calling himself a member of a colliery company. His lordship had explained this to a press friend over the telephone, and had then asked his friend to print the explanation in large print on the front page. His friend had refused large print and the front page on the ground that he had by then become only second-class news.

From the work of a society such as the Hardwicke, Lord Londonderry hoped that mankind might one day learn to perfect a world organisation. At present, although the science of organisation did wonderful things, it had not created harmony in the world, which was once more organised for war. Unless democracy could equal the dictatorial systems at organisation, they would get the better of it. The British Empire was a great organisation for peace, and the way to peace was to increase its armed strength.

The PRESIDENT said that never before had the Society entertained one such as Lord Londonderry who, not content with the social pre-eminence reminiscent of the spacious days of the eighteenth century, had ventured into the field of democratic politics with such success that, triumphing over the accident of birth which had condemned him to a life of comparative inactivity, he had, in what was rather curiously called "another place" achieved not merely one of the highest offices of the State—which indeed was something comparatively negligible in that it might be merely the gift of a party, due to charm or personal characteristics—but had also achieved the absolute acme of political flattery in being the most misquoted man at the last General Election. The Hardwicke Society, during the preceding year, had maintained its highest traditions, with an average attendance of thirty-two at its debates and a maximum of ninety-seven. Young men and women flocked to the Society, doubtless regarding it as a step to judicial preferment.

BENCH AND BAR.

The health of the Bench and Bar was proposed by the Honorary Secretary, Mr. G. E. Llewellyn Thomas, who said that it might appear to elderly barristers that many of His Majesty's judges were disgustingly healthy. The chief characteristic of the English-speaking judges was their great common sense, and that it was which caused them to be held in such great esteem.

LORD JUSTICE GREENE, replying, protested that the tables were very badly arranged in that the top table was deprived of the presence of ladies. In his opinion those on whom the burden of replying to speeches fell should have had the entire monopoly of the refreshing society of the fair sex. He thought it also unfortunate that in a controversy between Bench and Bar the Bar should have the last word. He had heard this toast proposed on more than one occasion in the past and had observed that the respondent for the Bar had generally devoted himself to a number of facetious and very misplaced remarks about the Bench. In order to draw his claws on this occasion, Lord Justice Greene proposed to make a few observations about the Bar. The Bar was a profession which conducted cases before the Bench. It never took a bad point. It never pursued an argument after an indication from the Bench that it was no good. It never quoted wrong cases. It never gave the wrong references. In marshalling facts, the economy of time and patience manifested was remarkable. After that, added Lord Justice Greene, he expected a *quid pro quo*. He hoped that it would long remain true, as at present, that whenever a job required courage, honesty, integrity and complete fearlessness everybody turned to the Bench and Bar of England. He hoped that nobody would ever suspect that a decision of a member of the Bench or Bar was actuated in the smallest degree by any hope of personal favour or fear of personal disadvantage, but that everybody would always, as now, realise that he would give his opinion in the honesty of his conscience and without caring what happened in consequence.

Mr. LINTON THORP, K.C., replying for the Bar, said that one of the great advantages of having a leader was that he took the shock of the first attack. In cases that came before the English courts there was a general desire that truth should come out. During his experience as a judge in the Near East he had often thought of that question asked by one of his distinguished predecessors: What is truth? He had not wasted his time repeating it. In his opinion the Bar suffered from over-organisation: enquiries and commissions on everything. The best thing that could be done for the administration of justice in this country was to give up all those enquiries and commissions, and revert to what had been good enough for our ancestors. The right of trial by jury had virtually been taken away. This was a great mistake and it should be restored at the first opportunity. One reason for restoring it was that a verdict of a British jury was accepted throughout the British Empire and the jury system stood as a buffer between the judges and the public. The judges were already beginning to receive criticism such as they had never had when there was a jury's verdict. It was a curious fact that no one called to the Bar was required to attend lectures or to pass an examination in making speeches. If it was really desirable to save judicial time (he could not see why, since judges were profitable to the public) the best thing would be to institute an examination in speaking. All those who could speak at any length should be ploughed and those who could not speak at all should be passed; that would lead to a great saving of judicial time.

The health of the guests was proposed by the honorary treasurer, Mr. J. A. PETRIE, and Mr. PHILIP MILLIN, K.C., of the South African Bar, responded. He said it was a very great thing for a stranger from a far country to be allowed the opportunity of attending such a gathering. Roman-Dutch Law was a living system because it had been developed by judges with a knowledge of English common law. Indeed, one judge, impatient of research into authorities, had declared that, next to Grotius, he thought Halsbury the most valuable authority on Roman-Dutch Law. The majority of South African lawyers would be very sorry to see any detraction from the limited right of appeal which their courts had to the Privy Council. The development of Roman-Dutch Law had gained much and lost nothing by this judicial link.

A meeting of the Society was held on Friday, 26th June, at 8.15 p.m., in the Middle Temple Common Room, the President, Mr. T. H. Mayers, in the chair. Mr. J. A. Grieves moved: "That this House deplores the decision of His Majesty's Government in regard to sanctions." Mr. Lewis Sturge opposed. There also spoke: Mr. James Amphlett, Mr. J. A. Petrie (Hon. Treasurer), Mr. Campbell Prosser, Mr. Crispin, Mr. Bentliff and Mr. Chaney. The hon. mover having replied, the House divided, and the motion was lost by one vote.

Parliamentary News.

Progress of Bills.

House of Lords.

Axbridge Rural District Council Bill.
Read Second Time. [25th June.
Brentford and Chiswick Corporation Bill.
Read Third Time. [1st July.
Cirencester Gas Bill.
Read Third Time. [1st July.
Colne Valley and Northwood Electricity Bill.
Read Third Time. [1st July.
Darlington Corporation Trolley Vehicles (Additional Routes) Provisional Order Bill.
Read Second Time. [25th June.
Derby Corporation (Trolley Vehicles) Provisional Order Bill.
Read Second Time. [25th June.
Doncaster Corporation (Trolley Vehicles) Provisional Order Bill.
Read Second Time. [25th June.
Education Bill.
In Committee. [30th June.
Employment of Women and Young Persons Bill.
Reported, without Amendment. [1st July.
Fishguard and Goodwick Urban District Council Bill.
Commons' Amendments agreed to. [30th June.
Gas Light and Coke Company (No. 1) Bill.
Reported, without Amendment. [25th June.
Gas Light and Coke Company (No. 2) Bill.
Read Second Time. [25th June.
Great Western Railway (Ealing and Shepherd's Bush Railway Extension) Bill.
Reported, with Amendments. [25th June.
Land Registration Bill.
Read Second Time. [1st July.
London and Middlesex (Improvements, etc.) Bill.
Read Second Time. [25th June.
Marriages Provisional Order Bill.
Read Second Time. [1st July.
Ministry of Health Provisional Order Confirmation (Barnsley) Bill.
Read Third Time. [1st July.

Ministry of Health Provisional Order Confirmation (Plympton St. Mary) Bill.
Read Third Time. [1st July.
Ministry of Health Provisional Order Confirmation (St. Helens) Bill.
Read Third Time. [1st July.
Ministry of Health Provisional Order Confirmation (West Hartlepool) Bill.
Read Third Time. [1st July.
Ministry of Health Provisional Order (Essex) Bill.
Read First Time. [30th June.
Ministry of Health Provisional Order (Lancaster) Bill.
Read Second Time. [1st July.
Ministry of Health Provisional Order (North Herts Joint Hospital District) Bill.
Read First Time. [30th June.
Ministry of Health Provisional Order (Ramsey and Saint Ives Joint Water District) Bill.
Read Second Time. [1st July.
Ministry of Health Provisional Order (Tees Valley Water Board) Bill.
Read Second Time. [1st July.
National Health Insurance Bill.
Read Third Time. [30th June.
Old Age Pensions Bill.
Read Third Time. [30th June.
Pensions (Governors of Dominions, etc.) Bill.
Read Second Time. [25th June.
Petroleum (Transfer of Licences) Bill.
Read Second Time. [1st July.
Pier and Harbour Provisional Order (Gloucester) Bill.
Read Second Time. [25th June.
Pilotage Authorities (Limitation of Liabilities) Bill.
Amendments reported. [1st July.
Public Health Bill.
In Committee. [25th June.
Public Health (Drainage of Trade Premises) Bill.
Amendments Reported. [1st July.
Reading Corporation (Trolley Vehicles) Provisional Order Bill.
Read Second Time. [25th June.
Sea Fisheries Provisional Order (No. 1) Bill.
Read First Time. [30th June.
Sea Fisheries Provisional Order (No. 2) Bill.
Read First Time. [30th June.
Shops (Sunday Trading Restriction) Bill.
Read Second Time. [25th June.
Tithe Bill.
Read First Time. [30th June.
Weights and Measures (Scotland) Bill.
Read First Time. [1st July.
Widows', Orphans' and Old Age Contributory Pensions Bill.
Read Third Time. [30th June.
Wolverhampton Corporation Bill.
Read Second Time. [25th June.
York Gas Bill.
Read Second Time. [25th June.

House of Commons.

Air Navigation Bill.
Read Third Time. [1st July.
Crown Lands (Recommitted) Bill.
In Committee. [29th June.
Finance Bill.
Amendments considered. [1st July.
Firearms (Amendment) Bill.
Reported, with Amendments. [25th June.
Fishguard and Goodwick Urban District Council Bill.
Read Third Time. [29th June.
Health Resorts and Watering Places Bill.
Read First Time. [30th June.
Lee Conservancy Catchment Board Bill.
Reported, with Amendments. [25th June
London County Council (Money) Bill.
Reported, with Amendments. [25th June.
London Midland and Scottish Railway Bill.
Lords Amendments agreed to. [26th June.
Malta (Letters Patent) Bill.
Read Second Time. [1st July.
Ministry of Health Provisional Order Confirmation (Barnsley Bill.
Read First Time. [1st July.
Ministry of Health Provisional Order Confirmation (Plympton St. Mary) Bill.
Read First Time. [1st July.
Ministry of Health Provisional Order Confirmation (St. Helens) Bill.
Read First Time. [1st July.
Ministry of Health Provisional Order Confirmation (West Hartlepool) Bill.
Read First Time. [1st July.
Ministry of Health Provisional Order (Essex) Bill.
Read Third Time. [26th June.
Ministry of Health Provisional Order (North Herts Joint Hospital District) Bill.
Read Third Time. [26th June.
Mortlake Crematorium Bill.
Reported, with Amendments. [25th June.
North Metropolitan Electric Power Supply Bill.
Reported, with Amendments. [25th June.
Sea Fisheries Provisional Order (No. 1) Bill.
Read Third Time. [26th June.
Sea Fisheries Provisional Order (No. 2) Bill.
Read Third Time. [29th June.
Solicitors Bill.
Read Third Time. [29th June.
Tithe Bill.
Read Third Time. [29th June.
Tring Gas Bill.
Reported, with Amendments. [25th June.
Weights and Measures (Scotland) Bill.
Read Third Time. [30th June.

Questions to Ministers.

HOUSING (CONTROLLED DWELLINGS).

Mr. JENKINS asked the Minister of Health whether his attention has been drawn to a recent judgment in the Court of Appeal which places on the tenants of controlled dwellings the onus of proof of such control; and whether he will take immediate steps to introduce amending legislation.

Sir K. WOOD: I am giving consideration to this matter. [25th June.

Rules and Orders.

THE HOUSING ACT, 1935 (OPERATION OF OVERCROWDING PROVISIONS) ORDER, 1936. Dated June 26, 1936, made by the Minister of Health under the Housing Act, 1935 (25 & 26 Geo. 5, c. 40). [S.R. & O., 1936, No. 665. Price 3d. net.]

Legal Notes and News.

Honours and Appointments.

The King has been pleased to approve that Mr. JAMES SCOTT CUMBERLAND REID, K.C., be appointed Solicitor-General for Scotland in succession to Mr. Albert Russell, K.C., who has been appointed to succeed the late Lord Murray as one of the Senators of His Majesty's College of Justice in Scotland. Mr. Reid was admitted an advocate in 1914 and took silk in 1932.

The King, on the recommendation of the Lord Chancellor, has approved the appointment of Mr. CYRIL F. PENTON, Barrister-at-Law, as a Senior Commissioner of the Board of Control in the place of Mr. S. J. Fraser Macleod, K.C., who has retired from the Service. Mr. Penton was called to the Bar by the Inner Temple in 1912.

The King has been pleased to approve the appointment of Mr. Justice MAHADEVA VISHNU BHIDE, I.C.S., as a Puisne Judge of the High Court of Judicature at Lahore in succession to Mr. Justice Agha Haidar, who will retire on 16th July.

The India Office announces that the King has been pleased to approve the appointment of Mr. FRANCIS GEORGE ROWLAND, I.C.S., as a Puisne Judge of the High Court of Judicature at Patna in the vacancy that will occur consequent on the retirement of Mr. Justice Macpherson on 21st August.

The Lord Chancellor has made the following appointments as Registrars of County Courts as from the 1st day of July, 1936:—

Mr. HENRY REEVE ALLERTON at Nottingham (also District Registrar); Mr. THOMAS MASON ASHTON at Ely; Mr. JOHN HENRY LATHAM BREWER at South Molton; Mr. WALTER JOHN JOSEPH at East Dereham; and Mr. THOMAS PERCY WILTSHIRE at Lowestoft (also District Registrar). Mr. Allerton was admitted a solicitor in 1914, Mr. Ashton in 1922, Mr. Brewer in 1898, and Mr. Wiltshire in 1929.

Dr. ARNOLD DUNCAN MCNAIR, C.B.E., Whewell Professor of International Law and Fellow of Gonville and Caius College, Cambridge, and Mr. DAVID PATRICK MAXWELL FYFE, K.C., M.P., have been elected Benchers of the Honourable Society of Gray's Inn.

Mr. ANTHONY PICKFORD, who has been City Solicitor since 1924, has been elected Master of the City of London Solicitors' Company for the ensuing year. Mr. Pickford was admitted a solicitor in 1907.

The Coroners' Society of England and Wales has elected Mr. J. A. K. FERNS (East Cheshire) as president, Sir S. WILLIAMS (Lower Gloucester) senior vice-president and Dr. G. COHEN (Eastern Middlesex) junior vice-president. Mr. Ferns was admitted a solicitor in 1901.

Liverpool City Council have confirmed the appointment of Mr. WILLIAM HENRY BAINES, deputy town clerk, as town clerk of Liverpool. Mr. Baines was admitted a solicitor in 1926.

Mr. D. J. OSBORNE, senior assistant and prosecuting solicitor to Southport Corporation, has been appointed deputy town clerk of Barnsley. Mr. Osborne was admitted a solicitor in 1933.

Professional Announcements.

(2s. per line.)

LAWRANCE, MESSER & CO., of 16, Coleman-street, E.C.2, have taken into partnership as from the 1st July, 1936, DONALD HARROP SHUTTLEWORTH, who has been associated with them for some time. The name of the firm will remain unchanged.

SOLICITORS & GENERAL MORTGAGE & ESTATE AGENTS ASSOCIATION.—A link between Borrowers and Lenders, Vendors and Purchasers.—Apply, The Secretary, Reg. Office: 12, Craven Park, London, N.W.10.

Notes.

His Honour Judge Barnard Lailey, K.C., and Mrs. Lailey, of Swanmore, Hants, celebrated their golden wedding last Tuesday.

Senior usher at the Law Courts, Mr. Wilfred Green, retired last week after 38 years' service in the building. He is 70 years of age.

Sir John J. Withers, C.B.E., M.P., and Mr. Eric Gore Browne, D.S.O., have retired from the board of the Legal and General Assurance Society, Ltd., and Mr. Geoffrey B. Williams, of Messrs. Withers & Co., and The Hon. Ian Leslie Melville, of Messrs. Glyn Mills & Co., have been elected in their place.

In connection with the passing into law of the Tithe Bill, 1936, and the administrative changes attendant thereon, any members of the Incorporated Society of Auctioneers and Landed Property Agents who are concerned with the collection of lay tithe rent-charge are requested to communicate with the Society's Headquarters, 34, Queen's-gate, London, S.W.7.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE.	EMERGENCY ROTA.	APPEAL COURT I.	GROUP I. MR. JUSTICE EVE. Non-Witness.	MR. JUSTICE BENNETT. Witness Part I.
	Mr.	Mr.	Mr.	Mr.
July 6	Jones	More	Andrews	*Ritchie
,, 7	Ritchie	Hicks Beach	More	*Andrews
,, 8	Blaker	Andrews	Ritchie	*More
,, 9	More	Jones	Andrews	Ritchie
,, 10	Hicks Beach	Ritchie	More	*Andrews
,, 11	Andrews	Blaker	Ritchie	More

DATE.	GROUP I. MR. JUSTICE CROSSMAN. Witness Part II.	MR. JUSTICE CLAUSON. Witness Part II.	GROUP II. MR. JUSTICE LUXMOORE. Witness Part I.	MR. JUSTICE FARWELL. Non-Witness.
	Mr.	Mr.	Mr.	Mr.
July 6	More	*Jones	*Hicks Beach	Blaker
,, 7	*Ritchie	Hicks Beach	*Blaker	Jones
,, 8	Andrews	*Blaker	*Jones	Hicks Beach
,, 9	*More	Jones	*Hicks Beach	Blaker
,, 10	Ritchie	*Hicks Beach	Blaker	Jones
,, 11	Andrews	Blaker	Jones	Hicks Beach

*The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 9th July, 1936.

	Div. Months.	Middle Price 1 July 1936.	Flat Interest Yield. £ s. d.	‡Approximate Yield with redemption £ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	114½xd	3 9 10	3 1 1
Consols 2½%	JAJO	85½	2 18 6	—
War Loan 3½% 1952 or after	JD	106	3 6 0	3 0 5
Funding 4% Loan 1960-90	MN	117	3 8 5	2 19 11
Funding 3% Loan 1959-69	AO	103½	2 18 0	2 15 10
Funding 2½% Loan 1956-61	AO	93½	2 13 6	2 17 5
Victory 4% Loan Av. life 23 years	MS	115½	3 9 3	3 1 1
Conversion 5% Loan 1944-64	MN	118¼	4 4 7	2 6 2
Conversion 4½% Loan 1940-44	JJ	109⅛	4 2 6	2 10 7
Conversion 3½% Loan 1961 or after	AO	107⅝	3 5 0	3 1 2
Conversion 3% Loan 1948-53	MS	104⅛	2 17 5	2 11 2
Conversion 2½% Loan 1944-49	AO	101½	2 9 3	2 5 6
Local Loans 3% Stock 1912 or after	JAJO	96¾	3 2 0	—
Bank Stock	AO	374	3 4 2	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	86	3 3 11	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	95	3 3 2	—
India 4½% 1950-55	MN	115½	3 17 11	3 2 4
India 3½% 1931 or after	JAJO	98	3 11 5	—
India 3% 1948 or after	JAJO	85¾	3 9 11	—
Sudan 4½% 1939-73 Av. life 27 years	FA	119	3 15 8	3 8 3
Sudan 4% 1974 Red. in part after 1950	MN	116	3 9 0	2 12 4
Tanganyika 4% Guaranteed 1951-71	FA	115	3 9 7	2 15 4
L.P.T.B. 4½% "T.F.A." Stock 1942-72	JJ	109	4 2 7	2 14 0
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	109	3 13 5	3 7 0
*Australia (C'mm'nw'th) 3¾% 1948-53	JD	103	3 12 10	3 8 10
Canada 4% 1953-58	MS	110½	3 12 5	3 3 9
*Natal 3% 1929-49	JJ	101	2 19 5	—
*New South Wales 3½% 1930-50	JJ	100	3 10 0	3 10 0
*New Zealand 3% 1945	AO	100½	2 19 8	2 18 8
Nigeria 4% 1963	AO	113	3 10 10	3 5 5
*Queensland 3½% 1950-70	JJ	101	3 9 4	3 8 0
South Africa 3½% 1953-73	JD	107	3 5 5	2 19 5
*Victoria 3½% 1929-49	AO	100	3 10 0	3 10 0
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	97	3 1 10	—
*Croydon 3% 1940-60	AO	100	3 0 0	3 0 0
Essex County 3½% 1952-72	JD	106½	3 5 9	2 19 8
Leeds 3% 1927 or after	JJ	93	3 4 6	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	106	3 6 0	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	80	3 2 6	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	95	3 3 2	—
Manchester 3% 1941 or after	FA	97	3 1 10	—
*Metropolitan Consd. 2½% 1920-49	MJSD	100	2 10 0	2 10 0
Metropolitan Water Board 3% "A" 1963-2003	AO	95	3 3 2	3 3 8
Do. do. 3% "B" 1934-2003	MS	97	3 1 10	3 2 1
Do. do. 3% "E" 1953-73	JJ	100	3 0 0	3 0 0
Middlesex County Council 4% 1952-72	MN	114	3 10 2	2 17 10
† Do. do. 4½% 1950-70	MN	115	3 18 3	3 3 1
Nottingham 3% Irredeemable	MN	96	3 2 6	—
Sheffield Corp. 3½% 1968	JJ	106½	3 5 9	3 3 5
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	111½xd	3 11 9	—
Gt. Western Rly. 4½% Debenture	JJ	122½xd	3 13 6	—
Gt. Western Rly. 5% Debenture	JJ	136½xd	3 13 3	—
Gt. Western Rly. 5% Rent Charge	FA	131½xd	3 16 1	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	131	3 16 4	—
Gt. Western Rly. 5% Preference	MA	118	4 4 9	—
Southern Rly. 4% Debenture	JJ	110	3 12 9	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	111	3 12 1	3 7 3
Southern Rly. 5% Guaranteed	MA	130½	3 16 8	—
Southern Rly. 5% Preference	MA	120	4 3 4	—

*Not available to Trustees over par. †Not available to Trustees over 115.
‡In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other Stocks, as at the latest date.

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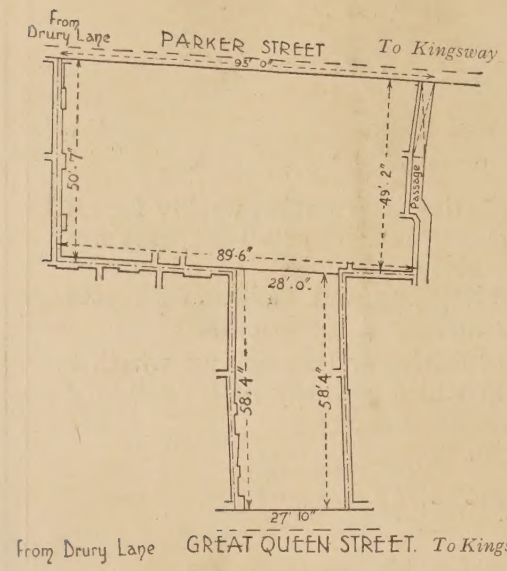

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